

**DISABILITY CLAIMS RATINGS AND BENEFITS
DISPARITIES WITHIN THE VETERANS
BENEFITS ADMINISTRATION**

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS
OF THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
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DISABILITY CLAIMS RATINGS AND BENEFITS DISPARITIES WITHIN THE VETERANS BENEFITS ADMINISTRATION

TUESDAY, OCTOBER 16, 2007

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:04 p.m., in Room 334, Cannon House Office Building, Hon. Harry E. Mitchell [Chairman of the Subcommittee on Oversight and Investigations] presiding.

Present: Representatives Mitchell, Space, Walz, Brown-Waite, and Stearns.

OPENING STATEMENT OF CHAIRMAN MITCHELL

Mr. MITCHELL. This hearing will come to order. This is the Subcommittee on Oversight and Investigations hearing on Disability Claims Ratings and Benefit Disparities within the Veterans Benefits Administration (VBA). I want to thank everyone for coming this afternoon.

For years the Veterans Benefits Administration has experienced problems maintaining adequate accuracy and consistency data within its rating system. The purpose of this hearing is to evaluate what the VA is doing to fix these problems. Their ability to keep accurate records is essential to ensure the quality of veteran disability ratings now and into the future.

Let me first thank Congressman Space who has quickly become a leader in working to address this issue. He and Ranking Member Ms. Brown-Waite took the lead in assembling the first panel. The disability ratings system has been an issue of serious concerns since 2002 following an eye-opening U.S. Government Accountability Office (GAO) Report. On January of 2003, the GAO designated the U.S. Department of Veterans Affairs' (VA's) Disability Program as high risk. This designation resulted from concerns about consistency of decision making and accuracy of records.

This Subcommittee is aware of the Department's efforts to correct these issues, but more has to be done. I am concerned about the wide variations in average compensation per veteran and grant rates that persist between states. After years of recommendations by the GAO and the VA Office of Inspector General (OIG), the VA has failed to collect and maintain an accurate database. This must change because our Nation's veterans cannot be forced to wait any

longer. According to VBA's Systematic Technical Accuracy Review or STAR, accuracy of regional office (RO) decisions vary from 76 percent in Boston to 96 percent at the Fort Harrison regional office.

This variation is troubling. More troubling is that STAR only looks at accuracy and completely ignores consistency of decisions. The VA has implemented a new data system called Rating Board Automation 2000. This system collects more information but it continues to set roadblocks for analyzing claim denials for disabilities like Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI). PTSD and TBI are complicated and often misdiagnosed disabilities. Because of their nature, rating a veteran with these disabilities is somewhat subjective.

We understand there are variances between states and claims decisions and that is to be expected. But the subjective nature of the ratings process does not do our veterans justice. We are sending the wrong message to our Nation's veterans. We are saying that even though you served courageously for your country, you better live in the right State and hire professionals when filing for disability benefits. This is unacceptable.

Just last week we heard from the Veterans Disability Commission on the necessity to provide equitable treatment for all veterans, but this is not the case today. Aside from maintaining accurate records, we need to make sure that claims officers nationwide receive the same training. This training must be focused on the intricacy of each disability imposed on any veteran young and old. I know that we can work together in a bipartisan way with the VA to ensure that our veterans get the best and most fair benefits available.

Before I recognize the Ranking Republican Member for her remarks, I would like to swear in our witnesses. Will all witnesses from all three panels please rise. And would you raise your right hand.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth.

Thank you. I would now like to recognize Ms. Brown-Waite for opening remarks.

[The prepared statement of Chairman Mitchell appears on p. 36.]

OPENING STATEMENT OF HON. GINNY BROWN-WAITE

Ms. BROWN-WAITE. Thank you very much, Mr. Chairman. The Institute for Defense Analyses (IDA) recently issued their final report in March of this year on the analysis of the differences in disability compensation in the Department of Veterans Affairs. This report was completed at the VA's request to identify and collect data on compensation of recipients.

According to this study, the VA must do three things. One, put forth a national effort of consistency of claims processing; two, make certain that the raters receive consistent training on a national basis; and three, collect and maintain valid data to analyze national statistics and trends.

I am very interested in hearing from the three panels, but especially I want to hear how VBA actually plans to implement those

recommendations. It is apparent that VBA must take steps to improve training and to modernize its rating system.

Whether a veteran's claim is rated at the St. Petersburg VA regional office or the Phoenix, Arizona, VA regional office, the same standard should be applied when making a rating decision on the claim.

I would like to mention a bill that I have cosponsored with my colleague, Mr. Lamborn, H.R. 3047, the "Veterans Claim Processing Innovation Act." This legislation would improve the veterans claim process at VA by changing the work credit system for VA. To do this, the measure establishes a fully electronic system pilot to streamline the claims process.

That bill also requires the VA to have an independent organization certify the effectiveness of VBA's training programs and allow family members of veterans who have passed away to continue the original claim instead of forcing the dependents to start the claim all over again.

I hope that this legislation will pass the Committee before the end of this Congress and be considered on the full House Floor. I look forward to hearing more from our witnesses today. And with that, I yield back the balance of my time, Mr. Chairman. Thank you.

[The prepared statement of Congresswoman Brown-Waite appears on p. 36.]

Mr. MITCHELL. Thank you. Mr. Space?

OPENING STATEMENT OF HON. ZACHARY T. SPACE

Mr. SPACE. Thank you, Mr. Chairman, and thank you Ranking Member Brown-Waite for holding today's Subcommittee hearing.

I requested this hearing because of my concern for the existence of inequities in veterans disability payments. More specifically, I requested this hearing because of my home State's dismal ranking in average disability payments. Ohio ranked dead last among States with an average of under \$8,000. The national average according to the Institute for Defense Analyses Report based on 2005 data was \$8,890. And the highest ranking State was New Mexico with an average of over \$12,000.

I am concerned that veterans in Ohio, who have served just as honorably as veterans in other States, may not be getting a fair deal by virtue of where they reside. In my district, one is more likely to live below the poverty line than to have a college education. That said, it is a struggle for many of my constituents to meet the demands of the cost of living in Ohio.

Poor veterans in Ohio need every disability dollar they have earned. I hope this hearing is a step in addressing that. I understand that some of the State-by-State inequity may be a result of factors beyond the control of the VA. However, I also believe there is much that can be corrected. There is a need for processes to increase consistency in the training given to claims raters. And furthermore, there is a need for oversight over the regional cultures that we will hear about today.

I want to know that every possible step toward addressing what is fixable about this situation is being taken. I am privileged to use my membership on the Subcommittee to shed some light on this

grave problem. Congressman Charlie Wilson, a good friend and colleague, wanted very much to be here today. However, he is recovering from recent surgery and on his behalf and on behalf of his constituents as well as mine, I look forward to hearing today's testimony to determine how Congress can best work to address the disability claims disparity that exists, and that is quite frankly negatively impacting the brave heroes of the great State of Ohio.

And I should also add that I am very grateful to have on hand today one of my constituents, Mr. Ray Pryor of Chillicothe, Ohio, who will present testimony on behalf of AMVETS.

I would like to request permission to submit the written statement of Mr. Donald Lanthorn, Department Service Director for the Ohio American Legion, for the record, pending review by the appropriate authorities.

Thank you, Mr. Chairman.

[The statements of Donald Lanthorn and Congressman Charles A. Wilson appear on pages 51 and 54.]

Mr. MITCHELL. Thank you. Mr. Stearns?

OPENING STATEMENT OF HON. CLIFF STEARNS

Mr. STEARNS. Yes. Thank you, Mr. Chairman. I guess we all know there have been many organizations that review the inconsistencies within the Veterans Benefit Administration. And they have recommended that the VA start gathering data and formulating metrics in order to better monitor any disparities.

The most recent investigation into inconsistencies between the VA regional offices and VBA Compensation Benefits consist of a Government Accountability Office Report that was issued in 2002. Another one was issued in 2003 and a third was issued in 2004. And they are followed by the Office of the Inspector General investigation in 2005 and an Institute for Data Analysis that the Chairlady mentioned earlier in the report in 2007.

My colleagues, in 2002, the GAO found that the VA did not systematically assess decision making inconsistencies to determine the degree of valuation variation that occurs for specific impairments, and recommend that the VA begin to gather useful data that would allow them to determine if there were problems with inconsistencies. Following the GAO of 2003 investigation, the VA began to better monitor accuracy. But it appears they still did not address the inconsistencies.

When the GAO returned to the issue in 2004 and determined the VA had not yet acted. They had yet to act on the 2002 recommendations. So, Mr. Chairman, we have these reports and the VA is not consistently acting on them. And as we go down this line of reports, we find there is less action than we would expect. GAO also noted that data in the VA benefits delivery network system did not, "provide a reliable basis for identifying indications of possible decision making inconsistencies among regional offices."

So the question is, when you have all this information over many years, why aren't they acting? In 2005, the VA OIG issued its own report now highlighting various inconsistencies. So we have all these reports and you have the VA's own OIG report. There are disparities in claims ratings and payments within the VBA, some

of the most significance being 100 percent disability ratings, and most specifically, as mentioned for Post Traumatic Stress Disorder and individual unemployment ratings.

Veterans with either a 100 percent disabled or individual unemployability (IU) rating received 58 percent of the total payment made by VA throughout the country, yet they make up only 17 percent of the total veterans population.

So both the IU ratings and the PTSD are extremely subjective. And I think hopefully our witnesses can give us a better understanding of this. This is a critical issue that must be resolved, especially in light of the reiterated frequencies of these various agencies indicating to us this is a problem. And there has been no one acting for 4 or 5 years, and yet we come back and talk about it.

So I am interested in hearing from our witnesses about the possibility of perhaps modifying the current data compilation program to collect more information on claims ratings to better monitor possible disparities.

So, Mr. Chairman, I appreciate your hearing on this, and hopefully the witnesses will be able to help us. Thank you.

Mr. MITCHELL. Thank you. Mr. Walz?

OPENING STATEMENT OF HON. TIMOTHY J. WALZ

Mr. WALZ. Thank you, Mr. Chairman. And thank you to every one who is here today. We truly appreciate it and please know that everybody in this room is committed to our veterans. I would like to say Chief Kenney that I find no greater friend to the veterans in our County Veteran Service Officers (CVSOs) so I thank you for your work there. They understand who they go to and who is their advocate to get things done. And in our Veterans Service Organizations (VSOs) that are speaking for veterans and understanding, we see ourselves and our role in this Oversight and Investigation Subcommittee to help facilitate any changes that are necessary to help our veterans.

I have said it dozens of times and I will continue to say it. We know that the people and those great civil servants that work in the VA want to deliver that service, but as my colleague Mr. Stearns so clearly and sufficiently pointed out, there have been plenty of suggestions to make changes, to make this better that have not happened. And I think it is incumbent upon us to make sure that this Committee is doing that.

So this is an issue that is on our veterans' minds. It is on my constituents' minds. The Disability and Claims System is something that they feel that there is a real injustice being done to our veterans. And this is just one more of those issues. But I do believe that there is absolutely no reason to believe we cannot get this fixed. There are some good hard data out there and I think there are some things that we can put into place. And I hope, as my colleagues have said, to hear from you on how we can do this.

And with that, I yield back, Mr. Chairman.

Mr. MITCHELL. Thank you. I ask unanimous consent that all Members have 5 legislative days to submit a statement for the record.

Seeing no objections, so ordered.

I would now like to call on Ms. Brown-Waite to make her introductions.

Ms. BROWN-WAITE. Thank you, Mr. Chairman. Thank you for giving me the opportunity to introduce one of my constituents and one of my favorite VSOs just because of the number of veterans that he deals with every single day, and yet he does it in a very cheerful manner. And that is John, "J.J.," as everyone knows him as, Kenney who is testifying before us today.

There is a very strong sense of service to the country that runs in the Kenney family. J.J. Kenney is the son of a World War II combat-wounded veteran. He, along with three of his other four siblings, served during the Vietnam War. His older sister retired as a Chief Navy Corp with 20 years in the U.S. Navy.

J.J. himself served in the United States Marine Corps from November 1963 until his retirement in September 1986 with over 20 years of service in the Marines.

As a training officer at the Navy Parachute Rigger School, he completed a total of 34 parachute jumps. After retirement from his civilian positions he moved to Florida and like many people got a little bored and re-entered the workforce as Citrus County's Assistant Veterans Service Officer.

After just 18 months, the County Commission recognized his talents and he was selected as the County Veterans Service Officer.

In 2002, his office was selected as the best large service office based on population by the Veterans of Foreign Wars (VFW) Department of Florida. J.J. is an accredited service officer holding accreditations for National Association of County Veterans Service Officers, Florida Department of Veterans Affairs, the American Legion, Disabled American Veterans (DAV), and the Veterans of Foreign Wars.

J.J. Kenney and his beloved wife of 42 years, Mary Ann, reside in a beautiful part of my district, Homosassa, Florida. They have three children and ten grandchildren. I am very pleased that he is here today to share his testimony. And we need to listen to the disparities that he will bring forth.

Thank you, Mr. Chairman and thank you J.J. for being here.

[Applause.]

Mr. MITCHELL. Thank you. Mr. Space?

Mr. SPACE. Thank you, Mr. Chairman. Ray Pryor served the United States Navy on active duty from June 1973 to May 1975 making four tours aboard ships in the South Pacific. He then served 6 additional years in the Naval Reserve. Following Mr. Pryor's military service, he was an employee of Ohio's Job and Family Services for 25 years, retiring in June of 2005.

In addition, Mr. Pryor served as a veterans employment State representative for 20 years with the last 5 years as the veterans licensing and certification coordinator for veterans programs. Mr. Pryor currently serves on the Ross County Veterans Service Commission as a county employee, and along with four commissioners, oversees the operations of the County Veterans Service Office. He sits on the South Central Ohio Homeless Veterans Committee; Ross County Veterans Council; Veterans in Transition, Inc.; and belongs to AMVETS, the American Legion, the DAV, Vietnam Veterans of America, and the VFW.

As a resident of Chillicothe, Mr. Pryor is, as I mentioned, a constituent of mine and a member of my Veterans Advisory Board. He is accompanied by Raymond Kelley, the Legislative Director for AMVETS. And I welcome Mr. Pryor and Mr. Kelley and thank them for taking time to be here today.

Mr. MITCHELL. We will begin with Mr. Kenney. You have 5 minutes.

STATEMENTS OF JOHN J. "J.J." KENNEY, USMC (RET.), HOMOSASSA, FL, VETERAN SERVICE OFFICER, CITRUS COUNTY, FL; AND RAY PRYOR, USN (RET.), CHILLICOTHE, OH, ON BEHALF OF AMERICAN VETERANS (AMVETS); ACCOMPANIED BY RAYMOND C. KELLEY, NATIONAL LEGISLATIVE DIRECTOR, AMERICAN VETERANS (AMVETS)

STATEMENT OF JOHN J. "J.J." KENNEY

Mr. KENNEY. Good afternoon, Mr. Chairman, Members of the Committee. I would like to thank the Committee for this invitation to speak this afternoon about some of the disparities in the awards of benefits from State to State.

I also would like to thank in front of her peers, Congresswoman Brown-Waite for her efforts on behalf of the veterans of Citrus County, Florida. Thank you, Congresswoman.

I would like the Committee to know that I am not here today to knock the VA. We, in the State of Florida, enjoy an exceptional relationship with our one and only regional office in St. Petersburg. Many of my fellow service officers in other States only wish they had the relationship with their RO that we do. If I have a problem, I can pick up the telephone and talk directly with the service center manager and any of the department heads and get the answers I need when I need them. When I call them, they call me back.

There does, however, continue to be a disparity in the awarding of benefits from State to State. And one wonders how this could be possible since all 50 plus regional offices are guided by the same regulations; the 38 Code of Federal Regulations (CFR) and the M21.

One, the 38 CFR provides the necessary information with regard to the ethical conduct in the adjudication of veterans claims along with how and when the information about veterans should be handled. Additionally, the 38 CFR provides the various information required with regards to diagnostic codes for the different illnesses and injuries along with the percentage to be awarded for severity of the disability.

The M21 Manual is basically a Standard Operating Procedure. What do I do to get from point "A" the receipt of the claim, to point "B" the decision. It would appear a relatively simple task of reviewing the evidence supplied by the veterans; reviewing the service medical records for an in-service occurrence; verifying character of service; determining from the medical evidence if the condition is chronic in nature or if the disease or illness is presumptive. Presumptive meaning that veteran has filed a claim within 1 year of separation or has a disability as a result of exposure to an environmental hazard; i.e., Agent Orange, radiation or was a prisoner of war.

There are several elements that are not be considered and they include the human element, the veteran population, and the inventory of the various regional offices. The human element is in every decision the VA renders. However, it differs from State to State. I know the training received by VA is superb and to the best of my knowledge standardized. So why the disparity in the awards?

I would like to provide the Committee with a couple samples. In the first example, the veteran who I will call Mr. Smith, resides in California. He entered the Armed Forces in the mid 1960s. At boot camp, the veteran received his inoculations with the air gun. In the late 1990s, early 2000, he was diagnosed with hepatitis C. He had not used drugs, had no tattoos, and had not engaged in any improper conduct.

He applied for service-connected compensation based on the use of the air guns providing medical evidence that supported his claim. He was awarded service connection.

Veteran number two, we will call him Mr. Jones, resides in Florida and entered the service approximately the same time as Mr. Smith. He too received inoculations with the air gun. Around the same time as Mr. Smith, Mr. Jones was diagnosed with hepatitis C. He initially thought it may have been the result of surgery he had undergone at the VA. Thinking he had received blood during the surgery, he applied for compensation thinking the blood may have been tainted.

Upon receipt of the claim, the VA located the surgical notes that indicated Mr. Jones had not received any blood products and denied his claim. In discussion with the veteran, again ruling out drugs, inappropriate behavior or tattoos it came down again to the air gun.

The veteran again applied for compensation based on the air gun providing some of the same evidence as Mr. Smith did in his claim. Additionally, he found a medic who was administering shot to the same time Mr. Jones was at boot camp. The medic verified the method the air gun was used and this supported by medical evidence that was——

Mr. MITCHELL. Can you wrap it up a little?

Mr. KENNEY. Yes, sir. Basically, both individuals, same disability, one granted, one not granted.

And the same thing applies. There was no disparity in the two of them. And the second example I had for you was with reference to hearing. Two veterans, same problem, hearing loss. Same type of service, same type of exposure. Veteran from New Jersey was approved, veteran from Florida was denied. That case is now on appeal.

It is apparent to me that the VSR is—the human element played a significant role in all these claims. How to remove that factor from the process, I don't know. Continued training is probably the best bet in reducing this factor in the claims process.

We look at the populations of Texas, Florida, and California. You can see the populations run from three million down to one million with Florida having the second largest amount of veterans and the oldest veterans population but we only have one regional office. California has three, Texas has two. That is another problem.

I submit that the VA should take a look at or look at it basically like they did with the Capital Asset Realignment for Enhanced Services (CARES) Commission. Look at the States, think of possible realignment, additional regional offices, and standardize the training if it is not standardized.

Mr. Chairman, thank you for your time. And again I appreciate the opportunity to come here before this Committee and your patient listening.

[The prepared statement of Mr. Kenney appears on p. 37.]

Mr. MITCHELL. Thank you. Mr. Pryor, you have 5 minutes.

STATEMENT OF RAY PRYOR

Mr. PRYOR. Thank you, Mr. Chairman and Members of the Subcommittee. And a special thank you to Congressman Space for inviting me over. Thank you for providing the AMVETS the opportunity to testify regarding the issue of disability claims and ratings and benefits disparities within the Veterans Benefits Administration. This hearing is very important in as it addresses an issue that continues to plague our Veterans Benefits Administration and leaves veterans frustrated and suspicious of the system that is in place to support them after their service to our great Nation.

In examining the factors that have led to the disparities in claims ratings two large overlying conditions are present that have allowed the gaps in ratings to exist and several circumstances have occurred which have exacerbated the problem.

First, and foremost, we are working with the system based on humans making decisions. Their perceptions understanding of conditions and occasional mistakes are going to play a role in disparities. If this was the only issue then the disparities would not be regionally based, they would be proportionately distributed throughout VBA.

However, there is evidence that displays disparities between regional offices. AMVETS believes these disparities are caused by two separate, but related, groups within the claims process. The Veterans Service Representative, the Rating Veteran Service Representative, the Decision Review Officer (DRO) and the rating—on the rating side and the compensation and pension (CP) doctors whose evaluation of a veteran is used by the regional office to decide a claim.

The reason these two groups have a great influence on the outcome of the veterans claims and why there are regional disparities is due to the personalities of the doctors, the raters, the review officers, the personalities of the regional office in general. These regional personalities develop because new raters and DROs are trained by the regional office and they develop the regional personality in styles of common terms and language are used by the raters when filing a claim. Terminology such as full range of motion compared to essentially full range of motion could change a rating by 10 percent.

Likewise, physicians perceptions and similar language usage can alter a claim. Veterans Service Officers will state they routinely see compensation and pension exams which will describe the patient with cookie cutter language leaving room for subjective interpretation.

In addition to these personalities that determine compensation on similar if not identical claims with a broad range of outcomes is the backlog of the claims themselves—VBA and the performance credit system that monitors the number of claims filed by the raters and DROs.

Currently there is no oversight of the quality of work the DROs perform. As identified by the AMVETS sponsored “National Symposium for the Needs of Young Veterans,” DROs are evaluated on the number of claims they submit, but not necessarily on the number of claims that are submitted and that are good claims and have awards given to them or are denied or lowered.

The backlog has increased the challenge of the number of claims that are overturned and remanded. When they are overturned and remanded they come right back into the system through appeals. AMVETS suggest three recommendations which will assist in narrowing the disparities in claims and reduce the backlog.

First, a centralized training facility that will be tasked with teaching new raters and DROs in a standardized outlined process in filing and reviewing claims. This will remove much of the regional personality that affects the disparity in the claims as they are.

Secondly, there are needs to improve the oversight of both the rater and reviewer and CP doctors. In regard to the CP, oversight should be placed and to ensure the examiners guide is being utilized. This could be done through the Whistle Blower Program which would allow a veteran to make an appeal or make a report on a compensation and pension (C&P) exam that went wrong.

This system—a system needs to be developed that will not only ensure claims are being filed but the claims are being filed properly and completely. H.R. 3047 makes efforts to improve the credit receive system which the DROs and rating veterans service representatives (RVSRs) currently work. This system, or a system that monitors a ratio of cases remanded—were overturned—to the total number of cases referred is essential in improving the claims process.

Lastly, understanding this is a 2- or 3-year process, hiring more staff to reduce the burden of the backlog is critical. There is no single, simple solution to the disparity problem, but identifying the roots of the problem and tasking VA with finding solutions to these problems is critical if improvements are going to recognize the claims system.

Mr. Chairman, this concludes my testimony.

[The prepared statement of Mr. Pryor appears on p. 39.]

Mr. MITCHELL. Thank you. We will now open up for questions. And I have a question, first of all, to Mr. Pryor.

Mr. PRYOR. Yes.

Mr. MITCHELL. You stated that the current disability rating disparities leave veterans frustrated and suspicious?

Mr. PRYOR. Absolutely.

Mr. MITCHELL. I think this is perfectly understandable and justified.

Mr. PRYOR. Right.

Mr. MITCHELL. In your opinion, and maybe you gave it in your last three recommendations, what can we do in Congress, short of a complete overhaul, to restore confidence in disability ratings?

Mr. PRYOR. We need to give the VA system the support at the Congressional level, full funding, money to hire new staff people. Staff people to help decrease the backlog, bring extra people in or people in to work on those claims. And do exactly as we talked support the initiative to make a standardized training system throughout the VA system where all are trained the same nationwide to support the veterans that are out there.

Mr. MITCHELL. And this question is to either Mr. Kenney or Mr. Pryor. We are all aware that the disability claims backlog is embarrassingly long. This is due in large part to inadequate data systems. Pressure is being placed on decision review officers to meet quota standards in order to address this backlog. It seems to me that this pressure is pushing complicated cases to the back burner when they should be receiving extra attention. What should be done in Congress or the VA to ensure that we put an end to this practice?

Mr. PRYOR. Well again we need to definitely make sure that the rating and adjudicators and the people reviewing those claims are fully trained and have a standardized manual or standardized process that they are using to make the decisions on ratings.

Secondly, when they make poor decisions and they make a low rating or a non-rating and that goes back to the veteran, that is going to cause the backlog if they are making those types of decisions when they should be rating a claim, that is going to go back to the veteran. The veteran is going to file an appeal. It is going to go back into the system and it is going to continually even bog the system down even more.

So maybe we should have a review of claims that are denied before they ever go back to the veteran, you know that might be an idea. But we need to be have a standard process and everybody rating from the same process.

Mr. KENNEY. Mr. Chairman, If I may? I know in our regional office one of the top priorities are the young men and the young women that are catastrophically injured as a result of our current conflict. And that has with some of our older veterans given them the perception that they are being placed on the back burner. And we assure them, you know, the VA went about and they established a Tiger Team in Cleveland to handle the backlog of those veterans over 70. But until VA gets the funding that they need to fully staff, it is just going to continue.

And it is, I think, it is going to get worse because most of, I would say and I am going to guess at 50 percent of the staff in the VA are about my age. About 2 years, 3 years from now, sir, they are going to be thinking very seriously about that cabana on the beach. And the VA is going to get hit with a large loss of personnel. And I think now is the time the VA has got to start thinking about those 3, 4 years down the road when those people are going to be leaving.

And I would suggest that similar to the BOOTS to Teachers Program. We should have a BOOTS to VA problem? Why not reimplement Project Transition? Military personnel that are planning on

leaving the service either due to the expiration of their enlistment or their retirement. Six years prior to that put them into a transitional program and put them in a VA Office. Have the VA offer them employment. Put them into a project transition. And then at their retirement or their release from active duty, these individuals will be 6 months ahead of everybody else. And they are coming off the line. They know what these troops have been going through because they are the troops. And I think that would greatly improve.

Mr. MITCHELL. Thank you. Ms. Brown-Waite?

Ms. BROWN-WAITE. Thank you, Mr. Chairman. That is an excellent suggestion, J.J. And as you were talking about, you know, people looking forward to the cabana on the beach, it made me think that you know even though right now there is a slow down in the housing market, people are not going to retire to, with all due respect, Alaska. They are going to be coming to Florida. And Florida will have even more veterans than what they—

Mr. MITCHELL. And Arizona.

Ms. BROWN-WAITE [continuing]. And Arizona. Even more veterans than what they do now. Right now we exceed Texas in the number of veterans that Florida is caring for and yet Texas has two regional offices. Tell me what if another regional office were to be placed in Florida, what do you think the outcome would be. Would it be more timely decisions? Tell me what your expectation would be if another regional office could be placed in Florida?

Mr. KENNEY. If we had another regional office in the State of Florida, I have no doubt that the claims process would be expedited. I think the last thing I saw was we had like 25, 26,000 claims in the inventory at St. Petersburg. So you split that, you have 13,000 each regional office. If we staff up the second regional office with experienced raters, plus a contingency of newly assigned or newly raters, DROs, I think it can't help but improve the system.

As we not only do we have the State of Florida, they are handling Puerto Rico—

Ms. BROWN-WAITE. And Georgia.

Mr. KENNEY [continuing]. And the U.S. Virgin Islands. So they are definitely, our regional office is overwhelmed.

Ms. BROWN-WAITE. Mr. Pryor, let me ask you a question. The IDA report that we will be hearing about in a later panel focuses on six recommendations for consideration by the VA. They are standardization of initial and ongoing training for rating specialist, to standardize the medical evaluation reporting process, to increase oversight and review of the rating decisions, to consolidate rating activities into a central location, and to develop and implement metrics to monitor consistency in adjudication results, and expand and improve data collection and retention.

I know that you assist veterans in their claims processing. If only three of these recommendations could be implemented, which three do you think should be at the top of the list?

Mr. PRYOR. Again, standardizing the training and the process for all of the adjudicators and the people that are reviewing the claims at the regional level, I think, definitely should take place. I think that should be our number one priority.

The claims itself and developing the claims process once it reaches the VA system, the regional office the VA system should be I think looked at very heavily. I, you know, possibly setting up a pre-screening a claim before it ever goes to an adjudicator to make sure everything is there. So that when it does go to the adjudicator, the adjudicator, the person reviewing that claim, can make good decisions.

So standardizing and maybe reorganizing or revamping that claims process and what is happening with that claim once it gets to the regional office would be the second issue. I really believe that.

The third issue to me is very important, is the staffing issue and to the AMVETS it is very important. I don't think you can do any of those things unless you staff appropriately and get that backlog out of there. Taking care of that backlog.

Ms. BROWN-WAITE. As you know, there are 1,500 that I believe that were in last year's appropriations. Obviously, there is a training process that takes place there. There are many of who believe that certainly could at least double maybe triple that number to work on that backlog.

I appreciate your comments, sir. Thank you very much.

Mr. PRYOR. Thank you.

Ms. BROWN-WAITE. J.J., while the yellow light is on, did you want to add anything?

Mr. KENNEY. I think he pretty well covered it. We—I know the VA has the Veterans Claim Assistance Act. They have a duty to assist now. We in the field that sit across the desk from the veteran, it is our responsibility. And in my office I try not to forward any claim that is not ready to rate.

Ms. BROWN-WAITE. Thank you very much. And I yield back, Mr. Chairman.

Mr. MITCHELL. Thank you. Mr. Space?

Mr. SPACE. Thank you, Mr. Chairman. Mr. Pryor, I wanted to just inquire if we could in maybe more real world terms about the issue of personalities, whether it be of claims or physicians who are doing compensation or pension exams, or whether it be on the raters that are making their determinations based upon, in large part anyway, those exams.

Can you give us an example, perhaps, of how that, you know that term personality that you referred to in real world application what we are talking about here?

Mr. PRYOR. Well you mentioned New Mexico and just last week I was working with a Veteran there in Southern Ohio who had a claim for PTSD. And the veteran was awarded I think 20 percent service connection on PTSD and was in the process of filing an appeal. And I don't know who he talked with at the VA System, but you know he was told you know, "If you want 100 percent, go to New Mexico." Because there was C&P doctor down there that was a war time veteran that reviews claims. And anybody that was in combat and saw battle was automatically recommended 100 percent disabled.

That is where the personalities, past experiences, a persons' life—that human factor gets involved. And we are never, I guess, we will never get totally away from that, but if we try to stand-

ardize and provide that person with standard formula that he has to go by or they have to go by then, I think we are going to have more standard awards across the Nation, State by State.

Mr. SPACE. Right. And I mean are you aware of any reputation that any particular facilities in your region perhaps may have from a personality standpoint that may affect the amount of awards that are rated?

Mr. PRYOR. I am, you know, I think each facility—first of all, I want to say that every VA facility that I have ever worked with the people have been great people. But if a VA facility is short staffed and does not have the staffing level to give good in-depth service and the people, the doctors, the people are spread so thin that they are dealing with thousands and thousands of people, then that is going to have an affect on their decision making and how much care they are going to take on a claim, how much care they are going to take with one person. And you may have one hospital, for instance the hospital there in Chillicothe which is a very fine hospital, but they may be staffed short, staffed in the psycho-analysis area and that is an area that is going to suffer in that hospital.

Mr. SPACE. Thank you, Mr. Pryor. Again, thank you for coming to Washington for this hearing. And I yield back.

Mr. MITCHELL. Thank you.

Mr. Walz.

Mr. WALZ. I have no further questions, Mr. Chairman. I yield back.

Mr. MITCHELL. Thank you. Any further questions? Well thank you very much. We appreciate you coming today.

Before we get to the second panel, let me just say that we are about to take some votes and the votes will be about 30 minutes. So if the next panel would come up we can get started anyway. And once the buzzer rings we will recess until we have the votes.

And I welcome panel two to the witness table. Dr. David Hunter is a Research Staff Member at the Institute for Defense Analyses and the Project Leader for IDA's recent report on disparities.

Mr. Jon A. Wooditch is the Deputy Inspector General in the VA's Office of Inspector General and an original author of the OIG's report from 2005.

Their insight and experience on this issue is welcomed. Mr. Hunter you have 5 minutes to make your presentation.

STATEMENTS OF DAVID E. HUNTER, PH.D., RESEARCH STAFF MEMBER, COST ANALYSIS AND RESEARCH DIVISION, INSTITUTE FOR DEFENSE ANALYSES; AND JON A. WOODITCH, DEPUTY INSPECTOR GENERAL, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY JOSEPH M. VALLOWE, DEPUTY ASSISTANT INSPECTOR GENERAL, MANAGEMENT AND ADMINISTRATION, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF DAVID E. HUNTER, PH.D.

Mr. HUNTER. Mr. Chairman and Members of the Subcommittee, I am please to come before you today to discuss IDA's work on dis-

ability compensation conducted for the Department of Veteran Affairs.

In May 2005, the VA asked the Institute for Defense Analyses to conduct a study of the major sources of the observed variations across States, and one, the average payments that veterans receiving disability compensation, and two, the percent of veterans receiving disability compensation.

My testimony today will be based on the results of that study which have been documented in IDA paper P4175. For the first question, the variation in average payments across States, we found that the average award in this State is almost entirely driven by the proportion of recipients who are receiving maximum awards. For the maximum awards, we found that awards of individual unemployability or IU exhibited the greatest variability across States.

Our study quantified the amount of variation attributable to States having veteran population with different characteristics. We found that State-to-State differences in compensation recipients account for 50 to 70 percent of the observed variation across State in average awards.

The major factors we identified that contribute to the observed variation across States are Post Traumatic Stress Disorder or PTSD, power of attorney representation, and period of service of the veteran.

For the second question, the variation of percent of veterans receiving compensation, we found that application rates appear to be the key driver of the variation. In addition, we found that military retirees are over four times as likely to be receiving compensation as non-retirees. And this alone accounts for over 40 percent of the variation across States.

Based on our findings and observations we made six recommendations for consideration by the VA. I should mention we examined the process by which VA adjudicates claims and found that the process has potential for producing persistent regional differences in rating results.

Our recommendations were, one, standardize initial and ongoing training specialists. Two, to standardize the medical evaluation reporting process. Three, to increase oversight and review of the rating decision. Four, to consolidate rating activities to a central location or to fewer locations. Five, develop and implement metrics to monitor consistency and adjudication results. And, six, to improve and expand data collection and retention.

Now these recommendations aim to improve the consistency of the adjudication process.

Mr. Chairman and Members of the Subcommittee, that concludes my remarks. I have provided a more extensive statement that I ask be included in the record. And I am available for questions.

[The prepared statement of Dr. Hunter appears on p. 40.]

Mr. MITCHELL. Thank you, Dr. Hunter, and we do have that statement. It will be included.

Mr. HUNTER. Thank you, sir.

Mr. MITCHELL. Mr. Wooditch?

STATEMENT OF JON A. WOODITCH

Mr. WOODITCH. Thank you, Mr. Chairman and Members of the Subcommittee.

I am pleased to be here today to discuss the OIG's report on *State Variances and VA Disability Compensation Payments* issued in May 2005. With me is Joe Vallowe, Deputy Assistant Inspector General for Management and Administration, who is responsible for tracking implementation of OIG report recommendations.

Variances in average annual disability compensation payments have existed for decades. Our report indicated that the variance between the high and low State in fiscal year 2004 was \$5,043. To understand why this variance existed we identified and assessed more than 20 possible factors.

We discovered that some factors contributing to the variance were not within VBA's control. As such, we concluded that some level of variance is expected. We also discovered that some factors are within VBA's control, especially disability rating decisions, where much of the information needed to make these decisions is subject to varying degrees of interpretation in judgment.

This occurs with both veterans when providing information about their medical condition and VBA claims adjudicators when assessing it for rating purposes.

Rating decisions can also be influenced on how medical examination results are presented, by the amount of training and rater experience, and by the Rating Schedule itself.

This subjectivity results in inconsistent ratings for similar conditions, which can influence variances in payments among States. As a result, the issue is not whether a variance exists, but whether the magnitude of the variance is acceptable.

Our 2005 report includes eight recommendations aimed at improving consistency of ratings. In particular, we recommended that VBA conduct a study of compensation payments in order to develop data and metrics for monitoring and managing variances.

The December 2006 Institute for Defense Analyses report conducted as a result of this recommendation confirmed our findings and made meaningful recommendations to assist VBA in understanding and reducing unacceptable variances.

In preparation for this hearing, we obtained compensation payment data by State for fiscal years 2005 and 2006. Our review of this data revealed that while national variances continued to increase, it is doing so at a much lower rate than in previous years.

We also discovered that one reason for this decline can be attributed to more consistent ratings for new claims. In fact, the national variance for new claims has declined from \$6,054 in 2004 to \$4,477 in 2006.

While some progress has been made, VBA remains challenged to improve consistency of ratings. To accomplish this, we believe further efforts are needed in monitoring and measuring variations in ratings by State and VBA regional offices. Unacceptable variations should be thoroughly evaluated to include in-depth reviews of individual claims that deviate from expected norms. Information obtained from these reviews should be used to improve rating consistency nationwide.

This approach is consistent with IDA's recommendations and with VBA's own Consistency Analysis Study Group, which provided a plan to analyze and rectify inconsistencies in disability evaluations by looking at individual claims.

In response to our 2007 Major Management Challenges, VBA stated that it plans to begin quarterly monitoring of rating decisions by diagnostic code and expand its quality assurance program, known as STAR, to accomplish these reviews during fiscal year 2008.

In closing, we believe implementation of the Study Group plan and IDA's recommendations will greatly assist VA in improving the consistency of rating decisions. We also believe that expansion of the responsibilities and staff of the STAR Program will be very important to achieving this goal.

Mr. Chairman, that concludes my remarks. I thank you once again for the opportunity to discuss this very important issue. Mr. Vallowe and I will be pleased to answer any questions.

[The prepared statement of the Mr. Wooditch appears on p. 42.]

Mr. MITCHELL. Thank you. We hate to inconvenience you, but we will be back in about a half hour. Thank you.

At this time, the meeting is recessed for about 30 minutes.

[Recess.]

Mr. MITCHELL. We will reconvene now with this hearing. Because of the little break, I hope the questions I ask both of you will not be redundant from what you said in your statement. I want you to know that both your full statements have been included in the record.

First, Mr. Wooditch, you know the VA Inspector General has weighed in on this issue in the past. And the Department responded with minimal action. Having seen the report and recommendations by the Institute of Defense Analyses, do you think the VA has the resources to react more aggressively now?

And if not, what would be immediately necessary to remedy this problem?

Mr. WOODITCH. As I said in my statement, I really think it is important to do individual case reviews of claims that show wide variances in ratings nationwide. I think VBA's STAR program, their quality assurance program, is the ideal mechanism to help make that happen.

I believe that program currently is underfunded in terms of resources, and I think that more quality assurance folks need to be put into it. But given the magnitude of the problem, VBA has a very, very difficult challenge. They process something like 1.7 million claims a year. They have a backlog that everybody is aware of. They have a very difficult balancing act on determining do we put resources into processing claims or do we put resources into quality assurance?

So I think they need more resources in both areas to make it happen.

Mr. MITCHELL. Your analysis used various data sources and advance statistical procedures to reach your conclusions. I do not think we should have to commission such an in-depth audit every time we want some information on improving veterans disability claims.

What improvements, and I think you did suggest those, would you make to the current system to ensure that Congress and the VA always have the best disability claims data at the ready?

Mr. HUNTER. Sir, I think we recommended in our report one of the pressing issues is VA needs to improve their data collection and retention. One of the struggles we had in our study was getting the data in a proper form for us to do our analysis. To do something quicker where you could have access to metrics to examine variations more quickly, that would be only done I think if data was available for analysis that was now being collected by VA.

So VA has this data in hand but typically uses it to pay veterans but does not keep it for analysis. And that would need to be done, I believe.

Mr. MITCHELL. Mr. Space?

Mr. SPACE. Thanks, Mr. Chairman. Mr. Hunter, I listened to your testimony and I have not had a chance to review your report or your statement. But I just want to clarify a couple of things.

Your testimony discussed some issues that I believe you indicated were part of the reason anyway that we see variations that were not attributable to actions or inaction of the VA. Is that correct?

Mr. HUNTER. Yes, sir. That is correct.

Mr. SPACE. I want to make clear, however, that you are in fact acknowledging that there are variations that perhaps are systemic within the VA that may be contributing to the extent of those variances?

Mr. HUNTER. Yes. Our findings were that between 50 and 70 percent could be attributable to different characteristics in the veteran and recipient population across States. But that the current process as it has been set up, has the potential for producing regional differences. And the 30 to 50 percent remaining that could not be explained could be due to these regional differences in adjudication results.

Mr. SPACE. And so, 30 to 50 percent of those—we all understand there are going to be variations. If you had a perfect system there would be variations. But your feeling is that 30 to 50 percent are attributable to deficiencies within the VA?

Mr. HUNTER. Potential inconsistencies. I mean we couldn't find any other explanation the data we looked at.

Mr. SPACE. All right. And do you—I believe your statement references attorney representation as a variable. I want to talk a little bit about that with the limited time that I have.

First of all, with respect to attorney representation, why would that be listed as a variable?

Mr. HUNTER. Well it turned out that if you looked at veterans with power of attorney representation, they received I think about three times as much average awards. A little over 11,000 versus veterans without power of attorney representation.

Mr. SPACE. All right. And—

Mr. HUNTER. There was a huge disparity between those two groups.

Mr. SPACE. Okay. And I understand that. I am curious as to why that would be listed as a variable in a study as to the reasons for discrepancies on a State-by-State basis.

Mr. HUNTER. I mean one of the things we tried to get at in our study was if that was the reason for the differences, then we know what corrective actions to recommend. If the differences were just certain States had more access to power of attorney than others.

What we had found, however, were that veterans with power of attorney had done substantially better than veterans without power of attorney. But that across States, it didn't explain as much of the variation. We quantified only 15 percent of the variation was due to power of attorney differences alone across States.

Mr. SPACE. So there are significant discrepancies between States in terms of the number of veterans who seek legal counsel?

Mr. HUNTER. Of the percent of recipients who have a power of attorney listed on their claim. Correct. There is variation across States.

Mr. SPACE. Now is there a difference between having a power of attorney listed in seeking legal counsel or is it essentially the same thing?

Mr. HUNTER. Yes. I think power of attorneys aren't necessarily lawyers. I mean they could be CVSOs or VSOs. I mean there could be different levels of training. But we categorize whether you had a sponsor on your claim whether it was from AMVETS, DAV or from legal counsel versus if you submitted your claim yourself.

Mr. SPACE. All right. Now do you have any ideas as to the reasons for that discrepancy between those who have power of attorney and those who don't?

Mr. HUNTER. Yes. We looked into that a little bit and we found three reasons. I mean the first one was that if you had a power of attorney you had slightly more issues per claim. So a power of attorney would advise the veteran to submit not only the claim they came in for, but other things they may qualify for of which the veteran may not been aware.

Mr. SPACE. Uh huh.

Mr. HUNTER. The second one is the veteran with the power of attorney had a slightly higher average degree of disability than a veteran without a power of attorney. So the hypothesis there which proved out to be shown in the data was that the power of attorney would know what forms to fill out and be able to more adequately explain the veterans injury.

But the number one reason by far for the improvement was a veteran with a power of attorney was far more likely to qualify for individual unemployability. Twelve percent of veterans with a power of attorney or the IU had a power of attorney. If it didn't have a power of attorney, only 1.7 percent wound up with IU.

Mr. SPACE. Is it safe to assume from that a veteran is more likely to be able to obtain the assistance of counsel when he has got a stronger case?

I mean, I am trying to figure out the reasons for this. It seems to me that as far as legal counsel goes, the likelihood of obtaining or being able to retain counsel improves with the quality of one's argument for disability.

As a former lawyer, I can tell you that is true. I also—Mr. Chairman, may I have an additional 2 minutes?

Mr. MITCHELL. Yes.

Mr. SPACE. Thank you. I am also concerned that the presence of legal counsel in and of itself may have an impact on hearing officers or raters. Did your studies determine whether or not there was any influence that the mere presence of counsel may have had on the outcomes?

Mr. HUNTER. Well, I mean, I guess all we could look at was the data at the end. And we certainly found veterans with a power of attorney had higher average award than veterans without a power of attorney. But the hypothesis we got for raters were that the claims were better developed or that the power of attorney assisted the veteran in filling out all their necessary paper work for an IU claim or advise them of their legal rights.

All the raters we interviewed suggested that the mere presence of a power of attorney did not sway their opinion one way or the other.

Mr. SPACE. Okay. And one final question. Do you recommend that in response to your findings that it seems to me that we have one of two courses we can pursue. One is to encourage veterans to obtain counsel or second streamline the system and make it more navigable for those who aren't trained to deal with it.

Have you considered recommendations in terms of either one or both of those?

Mr. HUNTER. I would say our recommendations that we presented addressed probably more than what can be done to improve consistency across all States.

We didn't necessarily address the benefits of streamlining. It seems like it would be an excellent idea for many of the other VA problems that they face, but I think it was something a little out of the scope of our analysis which was just to address consistency and adjudication claims.

Mr. SPACE. Okay. Thank you, Mr. Hunter.

Mr. MITCHELL. Excuse me just a second. I would like to follow up on a question.

You mentioned that with an attorney or a power of attorney that many times they would file more than just one claim. I mean all the potential claims. For example, in the first panel Mr. Kenney pointed that two people had hepatitis C. And one said it was with an air gun and he was granted disability. The other thought it was with a blood transfusion, it was denied. When they went back and filed again it was the same type of air gun that created that.

So you are saying probably with a power of attorney they would take into account all the potential reasons for the disability—

Mr. HUNTER. Yes.

Mr. MITCHELL [continuing]. At one time.

Mr. HUNTER. That certainly is true, sir. And they would recommend other disabilities that you may be presumptive for and ask if you also have any symptoms for those conditions as well. Where a veteran might just come in for his knee or his back, which was his primary injury and wouldn't know about ringing in the ear or other presumptive conditions that he may qualify for.

Mr. MITCHELL. Thank you. Ms. Brown-Waite.

Ms. BROWN-WAITE. Thank you. I don't know how we take the human factor out of it with prejudices that people bring to a job, but in your testimony you discuss how the systematic technical ac-

curacy review that is used by the VA doesn't track consistency. If we can't take prejudices out of it, shouldn't we at least be tracking consistencies?

And I say prejudices. I mean not only prejudices but also sloppiness. And just those things that occur in the workplace that certainly shouldn't be occurring when you are dealing with veterans benefits, but it is out there.

If we started over to create a performance and quality assurance program that would include consistency and accuracy, what should this program look like?

Mr. HUNTER. I think our recommendation we said to create metrics to improve consistency. Sort of a two-step approach. The first is due to the large volume of claims the VA processes, it is unrealistic to do a large sampling just from the bottom up of picking them off the pile. So we suggested doing metrics where you could track the data to see if there are any red flags that pop up on some of your more variable issues such as post traumatic stress disorder awards or awards for individual unemployability or for grants or denials of service connection. And that will point you into areas of possible discrepancies at which point you can do some detailed reviews of the claim files to make sure that the claims are being adjudicated consistently across States and correctly across States according to VA guidelines. Neither of which is really being done or hasn't been done previously.

Ms. BROWN-WAITE. Do you believe that having an independent agency review and certify the VBA training procedure would improve standardization?

Mr. HUNTER. I don't know if we addressed in our report anything about having an independent assessment or what the best way to do it. But we certainly stressed the importance of making sure where everyone did receive the same training.

And the mechanism by which they received the training, we really didn't look too much into, but when one rating office is getting different training from raters in a different regional office you certainly have the potential for inconsistencies.

Ms. BROWN-WAITE. Is it the echo process of this, is the way we did it so we're feeding this back to the raters?

In other words, the trainers that is the way that they did it. They are in a region and so they echo this back to the people doing the rating.

Mr. HUNTER. Yeah. And then we certainly saw a lot of raters we had talked to said that on-the-job training from the more experienced people was their number one way of learning. And so they would typically pick up the rating style and be judged correct if they rated a case the same way as whoever was the second signature or who the more experienced raters were at the regional office.

Ms. BROWN-WAITE. Did you at all look at best practices that perhaps could be emulated elsewhere?

Mr. HUNTER. Yeah. I don't think we compared, for instance, the VA practice to claims processing or other similar activities outside of the Department of Veterans Affairs, if that is what you are asking.

Ms. BROWN-WAITE. No. I mean in the Department of Veterans Affairs, a really consistent, good regional office versus maybe one

that isn't. I mean, you pointed out the disparity in the awards that are given. Did you also find several that really did a superb job where the error rate was very low?

Mr. HUNTER. Yeah. No. I think we have consciously avoided any declarations of good regional offices versus bad regional offices or correct versus incorrect. We made no judgment if one was too high or too low. Our tasking was to find why they were different. And so we tried to identify why one regional office was giving different results from another regional office.

Ms. BROWN-WAITE. Okay. I yield back the balance of my time.

Mr. MITCHELL. Thank you. Are there any other questions of the panel?

Thank you very much. And thank you for sticking around during the vote. I appreciate that.

And as the third panel comes up, I just want you to know that in about 45 minutes to an hour we will be called for another one. So hopefully we can conclude this hearing by then.

I would like to welcome to the table Mr. Ron Aument. He is Deputy Under Secretary for Benefits for the VA and the most senior civil servant at the VBA. I appreciate you coming, Mr. Aument, and also want to thank you for your commitment to helping our Nation's veterans.

Would you please also introduce your team with you?

STATEMENT OF RONALD R. AUMENT, DEPUTY UNDER SECRETARY FOR BENEFITS, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY BRADLEY G. MAYES, DIRECTOR, COMPENSATION AND PENSION SERVICE, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

Mr. AUMENT. I certainly will, Mr. Chairman. I am pleased today to be accompanied by Mr. Bradley Mayes who is the Director of our Compensation and Pension Service, which is the Program Office responsible for the Disability Compensation Program and developing policy and procedures that are to be applied uniformly throughout the system.

Mr. MITCHELL. Thank you. And you have 5 minutes. You can submit your full statement to the panel afterward. Thank you.

Mr. AUMENT. Mr. Chairman and Members of the Subcommittee, I am pleased to be here today to discuss the Veterans Benefits Administration response to the Institute for Defense Analyses report on analysis of differences and disability compensation in the Department of Veterans Affairs.

Today I will discuss the various initiatives underway within VBA that support the recommendations put forth by IDA to improve the quality and consistency of disability claims processing.

I will respond to each recommendation in turn and discuss how VBA is working to achieve the intended outcome of that recommendation.

First, standardize the initial and ongoing training for rating specialists. VBA continues to enhance and expand training investments to ensure accurate and consistent decision making. New hires receive comprehensive training and a consistent foundation in claims processing principles through a national centralized training

program and a standardized training curriculum used by all regional offices. Standardized computer-based tools have been developed for use by all decisionmakers.

We have established a program of advanced development training for post traumatic stress disorder claims, and a mandatory cycle of training has been implemented for all employees involved in claims processing. VBA already has in place a skills certification process for veteran service representatives and we are developing a skills certification process for rating specialists. Additionally, we have increased our systematic technical accuracy review, STAR, staff and tasked it with more oversight visits to our regional offices and greater responsibilities for training our decision makers.

We have also made significant progress in our efforts to standardize the medical evaluation process. VA's Compensation and Pension Examination Program, CPEP, has been very successful in improving the examination process through the use of templates, quality reports, and examiner certification. Our CPEP initiatives are instrumental to achievement of our quality goals. VBA and the Veterans Health Administration continue to work together to develop and refine tools that will ensure greater consistency.

VBA has established an aggressive and comprehensive program of quality assurance and oversight to assess compliance of claims processing policy and procedures and assure consistent application. We are increasing our STAR Program staffing and the sample size of their reviews. We have enhanced the STAR database to better use the information collected in reporting reviews. And we are also increasing on-site training, site visit participation, and use of results from STAR reports to clarify procedures and better focus training.

The consolidation of specialized processing operations for certain types of claims has been implemented to provide better and more consistent decisions. Some of our efforts include the establishment of three Pension Maintenance Centers, the Tiger Team, the Appeals Management Center, and the Casualty Assistance Unit. VBA also established two Development Centers in Phoenix and Roanoke and centralized the processing of all radiation claims to the Jackson regional office.

The Benefits Delivery at Discharge Program provides service-members with briefings on VA benefits, assistance of completing applications and a disability examination before leaving military service. The goal of this program is to deliver benefits within 60 days following discharge. VBA has consolidated the rating aspects of this program to two rating sites, which is bringing greater consistency of decisions on claims filed by newly separating veterans.

We continue to look for ways to achieve additional organizational efficiencies through consolidation of other aspects of our claims processing, including death benefits, fiduciary activities, and telephone services. In addition to conducting quality reviews, C&P's STAR staff are beginning to conduct analyses to identify unusual patterns of variance and claims adjudication by diagnostic codes, and then review selected disabilities to assess the level of decision consistency among and between regional offices.

These studies are used to identify where additional guidance and training are needed to improve consistency and accuracy as well as

to drive procedural or regulatory changes. The VBA's data management systems have been substantially improved in recent years with such programs as the VETSNET suite of applications and the establishment of our data warehouse.

VETSNET and the analytical tools in our data warehouse provide our employees and managers with more robust data which better support information management and analyses.

Mr. Chairman, this concludes my testimony. And I will be pleased to answer any questions you or other Members of the Subcommittee may have.

[The prepared statement of Mr. Aument appears on p. 44.]

Mr. MITCHELL. Thank you. I do have one. You know this has been going on for a while. In 2002, there were inconsistencies brought up by the Government Accountability Office. And they issued another report in 2003 and a third report in 2004. And then it was followed by an Inspector General investigation in 2005. And from what we have heard over the course of this session of Congress, the lines and the wait periods are also getting longer, not shorter.

I want to know, how long is it going to take? And what are you doing to address these particular reports? It has been 2002, 2003, 2005 and now the most current one. What is stopping the VA from implementing the systems that have been recommended? And how long do you think it is going to take before we get this under control?

Mr. AUMENT. Well I think there is more than a single question there.

Mr. MITCHELL. Right.

Mr. AUMENT [continuing]. Mr. Chairman. If I can start with the GAO reports on consistency. One of the challenges, I believe that Dr. Hunter mentioned, had to do with our data on this. And the lack of robust and adequate data to help us—

Mr. MITCHELL. And let me ask you, who compiles this data?

Mr. AUMENT. We do. It is collected as a subsidiary of the claims adjudication process.

Mr. MITCHELL. And evidently that is part of the problem—

Mr. AUMENT. Indeed it is, sir.

Mr. MITCHELL [continuing]. Your data that you collected and that you have.

Mr. AUMENT. That is correct, sir. And, as Dr. Hunter mentioned, one of the things that they found challenging in the course of conducting their analysis was that our payment system, our old legacy payment system, is just that. It is a payment system. And it did not collect and retain as much administrative data as was needed to conduct very thorough analyses.

Much of that has changed starting in 2005. Looking forward from 2005 we have a much more robust data set available to us to conduct those very analyses that will lead us toward areas we should be examining more closely for inconsistencies.

Up until then, our STAR Program had always focused on the accuracy of decisions. And we had been tied philosophically to the notion that if we became more accurate in our decision making, consistency would indeed follow. But as GAO and many others have told you, that is not necessarily true.

So we need to follow up on these analyses to take us where the data leads us.

Mr. MITCHELL. And what did you do after the 2002, 2003, 2005 reports? Did you do anything with these reports at all?

Mr. AUMENT. There were many things included in those reports about what we should be doing to become more efficient, as well as to introduce qualitative improvements. There are a number of suggestions that they made about our STAR system for measuring accuracy. Many of those recommendations have been acted upon. But as for the consistency analysis aspect of it, very little was done with those recommendations due in part to the problems I just mentioned to you as far as having sufficient administrative data to actually get our arms around that.

Mr. MITCHELL. And do you think by the next time we have a report like this that these problems will be taken care of? How long do you think it is going to take to follow up on these recommendations?

Mr. AUMENT. I believe that we will have in place, before this fiscal year is out, a much more robust quality assurance program that includes consistency review capacity.

The STAR staff answers to Mr. Mayes and the Quality Assurance Program is under his direct control. We are adding staff to that program and we have armed them with some tools so that they have already begun some of the preliminary steps in conducting some of these consistency reviews.

For example, we have taken a look at some station outliers, from our perspective, in the PTSD Program, trying to take a look at what those findings will tell us about that program. He is going to be looking at more and more of our diagnostic areas and disability areas to try and find out if we have stations that are outliers either with excessively high or excessively low levels of service-connection ratings and what is going on at those stations that is different from the Nation as a whole.

Mr. MITCHELL. And the last follow up. Then there is nothing stopping the VA from implementing the system? You got everything in place and it should all be implemented?

Mr. AUMENT. That is correct, sir.

Mr. MITCHELL. Thank you. Ms. Brown-Waite.

Ms. BROWN-WAITE. Mr. Aument, the system that you were talking about obtaining and having available all the data, is that the BDN System?

Mr. AUMENT. The system that the Institute for Defense Analyses had to turn to for the data used in their analysis was the BDN System.

The system that I am speaking of today that has the more robust data is part of the VETSNET suite of applications and it is called RBA 2000. It also contains information and retains information about those claims where we have denied benefits as well as those where we have granted benefits.

Ms. BROWN-WAITE. Okay. Before we get to the benefit denial or granting, there is a problem that I actually was involved in with one of my constituents. He sent the necessary data in. He sent it, they never received it. He sent it in a second time and had a certified receipt requested. He got the certified receipt back. Any time

he called or my office called the response was the same, that they did not have the information. I get involved in some of the more difficult constituent issues. And I called and I got a very, very helpful man who probably if I give his name will be fired. He told me that he said, "No, ma'am." I identified myself. And I said, "This is my constituent." And I said, "You have a privacy form there." He said, "No, we don't have the information." He said, "But wait a minute, let me check another program. Let me go to another screen for another program." He went to the second screen. He said, "No, ma'am it is not there." He said, "But there is one more." There was a third program and he finally found this information.

Now if the veteran is calling in saying, "Do you have my information that I sent you? The documentation that you needed." And he or she is getting a, "No, no, no," answer because the person answering the phone only goes to one of the screens then there is an initial problem there. And when I went back because when I told staff about this they asked me when it was. I actually had the constituent step file through IQ printed out last night and it was in the fall of 2005. It was 2 years ago.

Has that problem been remedied?

Mr. AUMENT. There may be more than one problem there, Congresswoman. One of the problems it sounds like you are speaking about is an employee deficiency that I cannot guarantee——

Ms. BROWN-WAITE. Are there, sir——

Mr. AUMENT. There is only one system in which that data should be entered. That is correct. One——

Ms. BROWN-WAITE. Well, obviously, there are more than one system——

Mr. AUMENT. Right.

Ms. BROWN-WAITE [continuing]. That somebody somewhere has been using. And this man had the key to unlock it.

Mr. AUMENT. Yes.

Ms. BROWN-WAITE. Now the veteran was an elderly man who kind of was losing his patience and his belief in our government. He sent it in twice. We sent it in once. And the answer he consistently was getting was no it wasn't there.

So you are telling me that there is now only one system——

Mr. AUMENT. That is correct.

Ms. BROWN-WAITE [continuing]. That this information would be entered into?

Mr. AUMENT. That is correct.

Ms. BROWN-WAITE. And the name of that system is the RBA 2000?

Mr. AUMENT. No, it is not. It is called MAP-D, which is part of the tools used by our veteran service representatives in the process of developing claims. It should be entered into that system.

Ms. BROWN-WAITE. Are there still legacy systems out there that some people refuse to give up in the VA?

Mr. AUMENT. There is—they don't really have the option to do that, Congresswoman. It is not discretionary on their part as to whether or not they wish to retain an old system or a new system.

Ms. BROWN-WAITE. Are there simultaneously in different programs? Is information also being captured or is it all in one?

Mr. AUMENT. The legacy system is still in place. Not everything has been moved to the replacement system. So in some cases not all offices are working off of the same system. Not all of the functionality is in place; pension is still being processed in the legacy systems.

Ms. BROWN-WAITE. So what you are telling me is that there still may exist some additional system components out there that this information is in?

Mr. AUMENT. If you are going back to your original question, no there is not. There are not two systems in which the information you described would be entered, there is one.

Ms. BROWN-WAITE. Well there were three. So you are now saying there is only one?

Mr. AUMENT. That is what I am saying, Congresswoman, yes.

Ms. BROWN-WAITE. All right. I yield back.

Mr. MITCHELL. Thank you. Mr. Space?

Mr. SPACE. Thanks, Mr. Chairman. Mr. Aument, this—the VA contracted with IDA to do this analysis. And I would be interested in knowing, if you know, the circumstances surrounding that contract. Why was IDA chosen? Was it bid out? What were the—what was the impetus to hire IDA as opposed to someone else?

Mr. AUMENT. Well, first of all, the impetus was to respond initially to one of the recommendations that the OIG made in their May 2005 report—

Mr. SPACE. Right.

Mr. AUMENT [continuing]. Which was saying that we should bring in some outside—

Mr. SPACE. Right.

Mr. AUMENT [continuing]. Entities.

Mr. SPACE. Right.

Mr. AUMENT. Number two was that VBA was not the contracting party on that.

Mr. SPACE. Who was?

Mr. AUMENT. The VA's Office of Policy and Planning.

Mr. SPACE. Okay.

Mr. AUMENT. We co-funded that study with them, but we deferred to them as to the selection of the appropriate outside entity to perform this analysis.

Mr. SPACE. Do you know what went into that selection process?

Mr. AUMENT. No, I do not, sir.

Mr. SPACE. Overall what is your sense of the IDA recommendations?

Mr. AUMENT. I think that they are all very good recommendations. We believe that, for the most part, they help validate and support many initiatives that we already had underway. And they point us to areas where we need to do better, as well as where we need to have additional investment.

As a result, the quality assurance component of that is based in part, upon their recommendations that we provide substantially greater resources to the Quality Assurance Program because we realized we probably have under resourced that in the past.

Mr. SPACE. What is your impression of the recommendations concerning standardized training?

Mr. AUMENT. We think it is right on target. My boss, Admiral Cooper, comes from a Navy background. When he came into this position in 2001, one of the first changes he wanted to see introduced into the system was to have a greater degree of standardized training so as to avoid perpetuating some of the regional proclivities toward training in a particular direction.

So we have invested substantially greater amounts every year in centralized training.

Mr. SPACE. Okay. Just so I understand, you agree that investing in standardized training is a good thing. The concern I have is that I have looked at your statement and I have heard your testimony. And, I fear that I may be drawing the wrong impression here, but the sense I have is that you believe that the VBA is already undertaking the necessary steps to satisfy the concerns raised by IDA in its analysis.

And the concern I have is that perhaps you haven't. And again it almost appears to me as though you are brushing that off and saying, "We agree. We are already taking steps to do that. What is the next recommendation?"

And the question I have is what efforts, if any, is the VBA going to undertake in response to this analysis over and above what it has already undertaken in the past as it pertains to standardized training?

Mr. AUMENT. As it pertains to standardized training, we are insisting upon, first of all, the training plans coming in from each and every one of our regional offices. They are required to submit to the Under Secretary, before the end of this month, standardized training programs. In the compensation and pension area I believe we are asking for 80 hours?

Mr. MAYES. Eighty hours of mandatory training.

Mr. AUMENT. Eighty hours of mandatory training for every employee within their service centers at the regional offices.

Mr. SPACE. Now this is new in response to the analysis?

Mr. AUMENT. Well this is an increase in the standardized training requirements of the past. We have increased that. We are saying we need to have more mandatory training. We are increasing the dollar investments in our Centralized Training Program Development Process. In 2006, we spent around \$5 million on developing standardized training products for the compensation——

Mr. SPACE. Okay. But that appears to be something that was undertaken prior to the receipt of this report. And the concern I have is——

Mr. AUMENT. Pardon?

Mr. SPACE [continuing]. I think the VBA needs to step it up. I think the analysis verifies that. And I am optimistic that will happen.

Mr. AUMENT. Yes, sir.

Mr. SPACE. Now my other question, following up with what our Chairman asked, it would seem to me from your testimony that you believe the solution to these problems is entirely administrative. That apart from perhaps some additional funding, these are matters that can be handled administratively without the need for additional legislation. Is that a correct summary of your impression regarding the need for this Congress to act?

Mr. AUMENT. I believe that certainly the problems that were brought to our attention by the Institute for Defense Analyses that are actionable on our part lend themselves to administrative solutions.

I believe you had mentioned to one of the earlier panels about process simplification, whether or not we should be looking at that. Certainly from an ease of administration perspective, process simplification is a very attractive idea. But so often that occurs at the cost of a compromise in existing due process protections for veterans. We would never advocate that. Certainly not for the sake of making our job easier.

Mr. SPACE. Thank you, Mr. Aument.

Mr. MITCHELL. Just to follow up a little bit with Congressman Space. You said that there already has been, not new, but there has been training to standardize. If there has been training already, then what has been the problem? Not enough training?

Mr. AUMENT. Mr. Chairman, I regret if you took my comments to mean that we have solved the entire problem of standardized training, that there is nothing further to do. Indeed there is. We constantly must be developing new and additional standardized training and improving the standardized training that we have already developed.

We have a long way to go. It is a never ending process. We are nowhere near the end of the road yet, sir.

Mr. MITCHELL. Is there anything that you need from Congress to make sure that we can ensure that there is a national consistency? As to follow up again on Mr. Space who asked if it was just administrative. Is there anything you need from us to bring about a consistency?

Mr. AUMENT. There are two areas I would like to speak to. I think that I have seen some legislative proposals that are requesting reports to Congress. I think that in exercising your role as an oversight body holding us to task in these types of situations. I think that helps keep us honest.

Number two is the continuing support through funding. Right now we are able to have Mr. Mayes go out and essentially double the staff that he has devoted to his Quality Assurance Program and the STAR Program. And we have also told him if that is not enough come back to us and ask for more and we will provide that.

I think the continuing support from the Congress, recognizing the additional resources that need to go into this particular program, if we can continue to seek that support from you, that is a very important contribution, sir.

Mr. MITCHELL. Plus more oversight, looking over your shoulder.

Mr. AUMENT. Yes, sir. Never hurts us.

Mr. MITCHELL. Thank you. Ms. Brown-Waite.

Ms. BROWN-WAITE. Thank you very much, Mr. Chairman. How many people do you have in the Quality Service Program?

Mr. AUMENT. I will ask Mr. Mayes, but I believe the number today is 18. And I believe we are in the process of hiring 16 additional.

Ms. BROWN-WAITE. So that is the doubling you were talking about?

Mr. AUMENT. Yes.

Ms. BROWN-WAITE. Did I—is that enough?

Mr. AUMENT. That is a question I will ask Mr. Mayes.

Mr. MAYES. I think that—

Ms. BROWN-WAITE. You might want to turn your microphone on, sir.

Mr. MAYES. First of all, when we talk about our Quality Assurance Program in VBA, we have 18 STAR quality reviewers right now. But we have over 40 employees, or will have over 40 employees, involved in quality assurance with respect to the Compensation and Pension Program.

If I could just point out, the one thing that I think we really learned from the IDA report is that, while we were looking at quality, that is through the STAR Program where we have 18 employees that are reviewing the final product, the decision that encumbers the government to the veteran. What we weren't looking at is the variation in that final product across States.

So what we are doing is adding a fourth element to our Quality Assurance Program and that is consistency reviews. Previously we had three elements. They included STAR. They included site surveys. We actually go out and conduct site surveys to check that regional offices are in compliance with our policy. Then we conduct unique special reviews at the request of the Under Secretary or as a result of some unusual situation that requires reviews.

But we weren't calling cases in. We weren't systematically looking at variation and then calling cases in and reviewing those cases to look for the root cause of the variation.

Ms. BROWN-WAITE. So did you not know that there were discrepancies out there?

Mr. MAYES. Well, as Mr. Aument pointed out, we were under the impression that if we were assured that our final product was accurate that in fact that would take care of inconsistency. And I think that is the lesson that we have learned. We are not just looking at whether we dot all the "I's" and cross all the "T's" in that rating decision. But, is that rating decision, are those rules implemented consistently across jurisdictions?

Ms. BROWN-WAITE. If you double the number of those in the Quality Assurance Program to 34 from the 18 that it is now, or 36. If you double it, this is for 800,000 claims. Is that even going to be sufficient?

Mr. AUMENT. He has already gone through the next steps of increasing the sample size that we have per station.

Ms. BROWN-WAITE. All right.

Mr. AUMENT. I have had many conversations with Brad on this issue about what the right sample size is. If you want to parse that sample in more than a single way, how large should that sample be?

Frankly, I am of the view right now that we probably need to have additional staff devoted to this in order to give us the critical mass of sample that we really need. So it is my expectation that number is going to grow.

Ms. BROWN-WAITE. Did I understand you correctly, Mr. Aument, and I may not have, that you are getting from the RO's their training plan? Is that what you said?

Mr. AUMENT. We have asked them to produce training plans saying, "Show us how your training needs provide for your staff." Not every RO has training needs that are going to be identical. They are going to be using the same training products, but we may find some office has a much more senior group of staff that need refresher training in a particular area, whereas other regional offices have many more new hires and are going to have to focus on more basic types of training, more introductory products.

Ms. BROWN-WAITE. But is the training centralized? Or is the training left up to the RO's in which case you are still going to have inconsistencies?

Mr. AUMENT. The training plans submitted by each RO are going to be subject to the Under Secretary's approval. Generally speaking, we are going to find that most of the courses we are using for those in training are going to be centrally developed. It will not necessarily be centrally administered. A lot of it is computer delivered so that the employees will be taking the training at their desktop.

But we may find that there are some employees on site at those regional offices that may have to go to some source other than VBA's own centralized technical training. In some cases, there is leadership, management training, and coach training. For some of those types of products, there is a greater variety of course offerings.

Ms. BROWN-WAITE. So it is or is not centralized? In other words, is the training in Arizona the same as the training requirement and course outlines in Florida?

Mr. AUMENT. The basic training that every employee in Arizona takes is the same as the basic training that every employee in St. Petersburg takes.

Ms. BROWN-WAITE. And there is a course outline?

Mr. AUMENT. And there is a course outline.

Ms. BROWN-WAITE. Okay. Thank you. I yield back.

Mr. MITCHELL. Mr. Space.

Mr. SPACE. I have no further questions, Mr. Chairman.

Mr. MITCHELL. Let me ask this. This course outline that is the same, how long has that been in place?

Mr. AUMENT. Excuse me, Mr. Chairman?

Mr. MITCHELL. How long has that course outline been in place?

Mr. AUMENT. Oh, it is a dynamic outline. As we add courses to the curriculum it is going to be revised every single year.

Mr. MITCHELL. And everybody—how long have they been using this course? The same course?

Mr. AUMENT. Brad.

Mr. MAYES. Well, I want to make sure we are talking—

Mr. MITCHELL. We are talking about the training. The training these people are getting.

Mr. MAYES. Yes, sir.

Mr. MITCHELL. You said that they are getting the same training—

Mr. MAYES. The TPSS—

Mr. MITCHELL [continuing]. In St. Petersburg as well as Phoenix. If they are getting the same training, I want to know how long they have been getting this training.

Mr. MAYES. The development of the training modules, I believe, was initiated back in 2002. These would be the tools that are used.

Mr. MITCHELL. And then why are there discrepancies?

Mr. AUMENT. Discrepancies arise from more than just training differences, Mr. Chairman.

Mr. MITCHELL. But I think we were told that national training was one of the most important parts.

Mr. AUMENT. Absolutely, Mr. Chairman.

Mr. MITCHELL. And you say you have already gotten the training. It hasn't been working.

Mr. AUMENT. Well, there are differences in performance. There are many performance variables across the system, not all of which can be attributed to training. There are many, many issues: good supervision, good management, good leadership.

Mr. MITCHELL. How are you going to handle those things then?

Mr. AUMENT. Pardon?

Mr. MITCHELL. How are you going to handle good supervision and performance?

Mr. AUMENT. I think the way that you would do that in any sort of an operation, sir.

Mr. MITCHELL. But it hasn't been working.

Mr. AUMENT. You put out good performance standards and you try to make sure that people adhere to those.

Mr. MITCHELL. But it hasn't worked.

Mr. AUMENT. Well, I don't know. I think that, for the most part, it has worked. We have had regional office directors who have been removed.

Mr. MITCHELL. Then why are there discrepancies that are so wide?

Mr. AUMENT. It is more than just that, sir. There are many other reasons. You heard the Institute for Defense Analyses say it is not all something within our control. I mean there are differences in veteran populations. We can't control that.

Mr. MITCHELL. So we shouldn't expect any difference than what has been going on?

Mr. AUMENT. I think you should expect difference. You should see a narrowing band of variation on the new work coming into the system. But to the extent that you are going to be calling us up every year and taking a look at everybody on the rolls and saying, "what is the average annual compensation," that is not going to change measurably from year to year. The total population of veterans receiving compensation probably only changes by 5 percent each year.

Mr. MITCHELL. So we can expect Ohio to still be at the bottom?

Mr. AUMENT. Well, if I look at where Ohio is for the work that we do—

Mr. MITCHELL. And New Mexico at the top.

Mr. AUMENT [continuing]. In 2007 you will find that Ohio was number 37 for the work completed and the veterans added during 2007. But that is not going to change their position in the aggregate average that you are pointing to.

Mr. MITCHELL. Mr. Space?

Ms. BROWN-WAITE. May I—

Mr. MITCHELL. Excuse me. Go ahead.

Ms. BROWN-WAITE. One of the training components is the training for PTSD. And I understand it is a 30-hour training course. Is that correct?

Mr. AUMENT. Yes. The second module is a 30- to 33-hour course. It is the time, including the testing, it would take the average rating specialist to go through the course.

Ms. BROWN-WAITE. So how many raters have taken this 30-hour mandatory PTSD training?

Mr. AUMENT. Very few to date. We just rolled this out in July of this year. We just completed the field testing. In the training plans that are coming in for the fiscal year that began October 1, we are going to require every rating specialist to complete that. That is going to be without exception. Every rating specialist will complete that in 2008.

Ms. BROWN-WAITE. Do I understand you correctly that although we have been dealing with PTSD for this long that you just now have a training module or is this a new one?

Mr. AUMENT. This is a new one. There had been a more basic training module that was in place before that was really an introduction for new raters. This new product is developed to apply to all rating specialists whether they be new or experienced rating specialists.

Ms. BROWN-WAITE. When can we expect to have all of the raters trained on this 30-hour course?

Mr. AUMENT. By the end of this fiscal year.

Ms. BROWN-WAITE. And after they take the course, is there a test that is given?

Mr. AUMENT. Yes. During the course of the package, I believe there are four modules of testing built into it, correct?

Mr. MAYES. Yes. There are sample cases that are basically cases with fact patterns that an RVSR would see in the field. And so they go through these cases and apply the learning that they just had, going through the 33-hour module, and then they are tested on those fact patterns to see if they arrive at a consistent decision.

Ms. BROWN-WAITE. So is there a right and a wrong answer? Sir, I don't think this is funny.

Mr. AUMENT. No. I—

Ms. BROWN-WAITE. I have too many veterans who have been screwed over by the VA for you to sit there. I was going to comment before about your laughing.

Mr. AUMENT. I am sorry.

Ms. BROWN-WAITE. It is very inappropriate.

Mr. AUMENT. I duly apologize.

Ms. BROWN-WAITE. And you owe every veteran in this great country of ours an apology.

Mr. AUMENT. Let me answer that question. And I do apologize, ma'am. You are sensing my own frustration with a system that allows more than a single answer to that.

First of all, there is a right and a wrong determination on the notion of service connection. That is a yes/no determination. And there is an absolutely right answer and an absolutely wrong answer.

Now as to the rating, the evaluation that is applied to the case. Are they going to be rated zero percent, 10, 30, 50, 70, or 100?

There can be more than one right answer to that. Two different raters may rate that case and one may rate it at 50 percent and one may rate that at 70 percent. And there is not going to be an absolute answer to that question.

That is one of the frustrations. And if you sense my reaction to your question, that was my frustration, Congresswoman. Because to me, is one of the shortcomings of the system that it permits more than a single answer on that.

Ms. BROWN-WAITE. May I just ask a follow up question? Did you know this when you bought this module?

Mr. AUMENT. Pardon?

Ms. BROWN-WAITE. Did you know that—

Mr. AUMENT. Yes.

Ms. BROWN-WAITE. Did you know this when you bought the module?

Mr. AUMENT. That is correct, yes.

Ms. BROWN-WAITE. So we—how much did we spend for this?

Mr. AUMENT. I don't know how much on this module, but the training would not have changed that particular outcome, Congresswoman.

Ms. BROWN-WAITE. So we are still going to have inconsistencies even after the training for PTSD?

Mr. AUMENT. That is correct.

Ms. BROWN-WAITE. And is there a reason why it took so long? It is not like PTSD is something new that the VA is having to deal with. You have so many returning who returned from Vietnam who have PTSD. It just seems like it is almost too little too late.

Mr. AUMENT. I don't know if it is—I think that you could build a strong case for that, Congresswoman. But I think that we have to tackle it sometime. If we have not tackled that sufficiently in the past, we have to remedy that problem.

Mr. MITCHELL. Congressman Space?

Mr. SPACE. Thank you, Mr. Chairman. You know, it seems to me that I mean you are right in a sense that much of the rating determination boils down to a subjective judgment call. It is not entirely objective and it never will be. But it still troubles me that IDA, an organization contracted with by the VA, has clearly stated that up to 50 percent of the variation is attributable to something systemic within the system or the process.

And I mean it simply doesn't cut it to say it is a subjective issue and we are doing everything we can. We have heard testimony from more than one source that most of these raters' educational process, training process occurs while on the job. You can give them 30 hours of training, you can give them 120 hours of training, you can give them 3 years of training. That is always going to be the case.

We have heard testimony that these various regional offices have developed personalities of their own. We heard one gentleman testify that it is common knowledge. You can apply for PTSD disability rating in Ohio and expect 20 percent, and you can go to New Mexico and expect 100 percent.

And it seems to me that there should be focus on attacking that deviation in personality. Figuring out a way to overcome it. I don't see these courses as doing that. I don't see the work that the VA

is doing now as properly addressing the issue of culture and personalities that varies from regional office to regional office.

And my question to you, Mr. Aument, are there any efforts underway, either now or preceding this analysis, that would address specifically the problems associated with this—I mean it is generational. It is just that if Cleveland has got a bad reputation today, they had a bad reputation among veterans 20 years ago, and they are going to have a bad reputation 20 years from now because the raters who work now learned on the job from those who preceded them and they are going to be teaching the raters who are going to be rating in 20 years.

Is there anything that is going to be done or that can be done to address that generational culture of personalities that is in practice and in reality affecting this variation?

Mr. AUMENT. I think there are some things that we can do, Congressman. I believe that we have to set the tone, first of all, out of Washington philosophically as to what our expectations are and the approach that raters and anyone working in the regional office is going to be taking toward serving veterans.

We have to make sure that, to the extent there are pockets among any of the offices that have built in biases, we do everything that we can to stamp that out. But one of the things that I would suggest, and it is not necessarily a universally popular answer to that question, one of the recommendations that IDA had mentioned was that it is going to be inherently difficult to ensure consistency when we are rating these cases in 57 different locations.

If we want to become more consistent, one of the basic answers is to rate these cases in fewer locations.

Mr. SPACE. I am not sure that is practical or feasible.

Mr. AUMENT. Correct.

Mr. SPACE. Do we contract out responsibility for rating?

Mr. AUMENT. No, we do not. That is an inherently governmental function that cannot be contracted out.

Mr. SPACE. And it is not your position that should be or that would serve as a possible solution?

Mr. AUMENT. No. I can give you a parallel. I know in other government programs some of the front end work can be contracted out, some of the development activities. I know the State Department, for example, in doing some of their work in the visa program does some contracting of the development activities. But ultimately the decision that binds the country to this continuing liability and responsibility has to be made by a government employee.

Mr. SPACE. Nothing further. Thank you, Mr. Aument. Thank you, Mr. Chairman.

Mr. MITCHELL. Are there any other questions?

Thank you.

Mr. AUMENT. Yes, sir.

Mr. MITCHELL. Thank you. I appreciate it. And this hearing is adjourned.

[Whereupon, at 4:41 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Hon. Harry E. Mitchell, Chairman, Subcommittee on Oversight and Investigations

Thank you all for coming today.

For years, the Veterans' Benefits Administration has experienced problems maintaining adequate accuracy and consistency data within its ratings system. The purpose of this hearing is to evaluate what the VA is doing to fix these problems. Their ability to keep accurate records is essential to ensure the quality of veteran disability ratings, now and into the future.

Let me first thank Congressman Space, who has quickly become a leader in working to address this issue. He and Ranking Member Brown-Waite took the lead in assembling the first panel.

The disability rating system has been an issue of serious concern since 2002, following an eye-opening GAO Report. In January of 2003, the GAO designated the VA's disability program as high risk. This designation resulted from concerns about consistency of decision making and accuracy of records.

This Subcommittee is aware of the department's efforts to correct these issues, but more has to be done. I am concerned about the wide variations in average compensation per veteran and grant rates that persist between States.

After years of recommendations by the GAO and the VA Inspector General, the VA has failed to collect and maintain an accurate database. That must change because our Nation's veterans cannot be forced to wait any longer.

According to the VBA's Systematic Technical Accuracy Review, or STAR, accuracy of regional office decisions vary from 76 percent in Boston to 96 percent at the Fort Harrison regional office. This variation is troubling. More troubling is that STAR only looks at accuracy, and completely ignores consistency of decisions.

The VA has implemented a new data system called the Rating Board Automation 2000. This system collects more information, but it continues to set road blocks for analyzing claim denials for disabilities like Post Traumatic Stress Disorder and Traumatic Brain Injury.

PTSD and TBI are complicated and often misdiagnosed disabilities. Because of their nature, rating a veteran with these disabilities is somewhat subjective.

We understand there are variances between States in claims decisions, and it is to be expected. But the subjective nature of the ratings process does not do our veterans justice.

We are sending the wrong message to our Nation's veterans. We are saying that even though you served courageously for your country, you better live in the right State and hire a professional when filing for disability benefits.

This is unacceptable. Just last week we heard from the Veterans' Disability Commission on the necessity to provide equitable treatment for all veterans. But this is not the case today.

Aside from maintaining accurate records, we need to make sure that claims officers nationwide receive the same training. This training must be focused on the intricacies of each disability imposed on any veteran, young and old.

I know that we can work together in a bipartisan way with the VA to ensure that our veterans get the best and most fair benefits available.

Prepared Statement of Hon. Ginny Brown-Waite, Ranking Republican Member, Subcommittee on Oversight and Investigations

Thank you Mr. Chairman.

The Institute for Defense Analyses (IDA) recently issued their final report in March 2007 on their analysis of differences in Disability Compensation in the Department of Veterans Affairs (VA).

This report was completed at the VA's request to identify and collect data on compensation recipients.

According to this study, the VA must do three things:

1. put forth a national effort of consistency of claims processing,
2. make certain that raters receive consistent training on a national basis, and,
3. collect and maintain valid data to analyze national statistics and trends.

I am interested in hearing from Mr. Aument on how the VBA plans to implement these recommendations.

It is apparent that VBA must take steps to improve training and modernize its ratings system.

Whether a veteran's claim is rated at the St. Petersburg VA Regional Office, or the Phoenix VA Regional Office, the same standard must be applied when making a rating decision on the claim.

I would like to bring to your attention a bill I have cosponsored with my colleague, Mr. Lamborn, H.R. 3047, the Veterans Claims Processing Innovation Act of 2007.

This legislation would improve the veterans' claims processing system at VA by changing the work credit system for VA.

To do this, the measure establishes a fully electronic system pilot to streamline the claims process.

H.R. 3047 also requires the VA to have an independent organization certify the effectiveness of VBA's training programs, and allow family members of veterans who have passed away to continue the original claim instead of forcing the dependents to start the claims filing over.

I hope that this legislation will pass the Committee before the end of this Congress, and will be considered on the House floor.

I look forward to hearing more from our witnesses today, and yield back the balance of my time.

**Prepared Statement of John J. "JJ" Kenney, USMC (Ret.), Homosassa, FL,
Veteran Service Officer, Citrus County, FL**

Good afternoon Mr. Chairman and members of the committee. I'd like to thank the committee for the invitation to speak this afternoon about some of the disparities in the awarding of benefits from state to state. Also I would like to express, in front of her peers, my sincere appreciation to Congresswoman Ginny Brown-Waite for her efforts on behalf of the veterans of Citrus County. Thank you Congresswoman.

I would like the Committee to know that I am not here today to knock the VA. We in the state of Florida enjoy a relationship with our one (1) and only VA Regional Office in St. Petersburg. Many of my fellow service officers in other states only wish they had the working relationship with their ROs. If I have a problem I can pick up the phone and talk directly with the Service Center Manager and the heads of any of the departments at the RO if necessary. And when they say they will get back to you they do!

There has been and continues to be a disparity in the awarding of benefits from state to state. One wonders how this could be possible since all fifty (50) plus regional offices are guided by the same regulations the 38 CFR and the M21 Manual. One, 38 CFR, provides the necessary information with regards to the ethical conduct in the adjudication of veteran's claims along with how and when information about veterans should be handled. Additionally, the 38 CFR provides the various information required with regards to diagnostic codes for different illnesses and injuries along with the percentages to be awarded for severity of the disability. The M21 Manual is basically a Standard Operating Procedure. What do I do to get from point a, the receipt of a claim, to point b, the decision. It would appear a relatively simple task of reviewing the evidence supplied by the veterans, reviewing Service Medical Records, for in service occurrence, verify character of service, determine from medical evidence if condition is chronic in nature or if the disease or illness is presumptive. Presumptive meaning that the veteran has filed within one (1) of separation or the disability is a result of exposure to some environmental hazard or i.e., Agent Orange, Radiation or was a Prisoner of War.

There are several elements that are not being considered and they include the human element, the veteran population and the inventory of the various VA Regional Offices.

The human element is in every decision the VA renders, however, it differs from state to state. I know that the training received by VA personnel is superb and to

the best of my knowledge, standardized. So why the disparity in awards? I'd like to provide the Committee with a couple examples.

Example 1—The veteran, we'll call him Mr. Smith, resides in California. He entered the Armed Forces in mid 1960s. At boot camp the veteran received inoculations with the air guns. In the late 1990s early 2000s he is diagnosed with Hepatitis C. He had not used drugs, had no tattoos and had not engaged in any improper conduct. He applied for Service Connection based on the use of the air guns providing medical evidence that supported his claim. He was awarded service connection. Veteran number 2, we'll call him Mr. Jones, resides in Florida and entered the service approximately the same time as Mr. Smith. He too received inoculations with the air gun. Again, around the same time as Mr. Smith Mr. Jones was diagnosed with Hepatitis C. He initially thought it may have been the result of a surgery he'd undergone at the VA. Thinking he'd received blood during the surgery he applied for compensation thinking the blood was tainted. Upon receipt of the claim the VA located the surgical notes that indicated Mr. Jones had not received any blood products and denied his claim. In discussion with the veteran again ruling out drugs, improper behavior or tattoos it came down to the air gun. The veteran again applied for compensation based on the air gun providing some of the very same information Mr. Smith did in his claim. Additionally, he found a medic who was administering shots the same time as Mr. Jones was at boot camp. The medic verified the method the air gun was used and this supported the medical evidence that was submitted by both Mr. Smith and Mr. Jones. Mr. Jones claim was again denied and it is being appealed. Mr. Jones will die before his appeal is complete.

Example 2—The veteran, we'll call him Mr. Toms, resides in New Jersey. He spent over twenty years in aviation. Almost twenty years after retirement he applied to the VA for service connection for a hearing loss and tinnitus. He provided medical evidence of his hearing loss and listed the types of acoustical trauma he was exposed to which included several tours in Vietnam as a door gunner. His claim moved through the system and he was subsequently granted service connection. Our next veteran, we'll call him Mr. Wilson, resides in Florida. He too spent over twenty years in aviation. Fourteen years after his retirement he applied for service connected disability for several conditions included hearing loss and tinnitus. He provided the VA with medical evidence of the hearing loss and his service medical records at retirement supported a hearing loss. He too provided information on the types of acoustical trauma he was exposed to including several tours in Vietnam serving as a door gunner also. The claim was denied and is in appeal.

It is apparent to me that the VSR, that human element, played a significant role in all these claims. How to remove this factor in the claims process is, in my opinion, almost impossible. Continued training is the best bet in reducing this factor in the claims process.

In discussing the state veteran population and regional office inventory one has only to look at three (3) states and see where the problem is. California has a veteran population of 2,310,968 million, the largest, and has three (3) regional offices. Florida has a veteran population of 1,788,496 million and has one (1) regional office. Texas has a veteran population 1,681,748 million and has two (2) regional offices. Looking at the numbers is it any wonder there is a disparity in decisions. The key word in rating decisions is production. It's sad but the truth that VSR's are graded on their production so it's no wonder given the size of inventory and the number of regional offices that there will be disparities in decisions. I submit to the committee that the VA should conduct a study similar to the CARES Commission to accurately identify by state either additional regional office requirement and/or reallocation of regional office areas of responsible.

One last item before I close and that will affect the claims process is the age of our VSR's. A significant amount are about my age and looking to retirement in the next couple of years. Now is the time for the VA to establish a plan for recruitment of the replacements of these VSR's. If we don't plan for it now I can assure you that the disparities in the claims process will escalate.

Again I'd like to thank the committee for the invitation to speak and also your efforts on behalf of our Nation's veterans.

Respectfully submitted

J.J. Kenney

**Prepared Statement of Ray Pryor, USN (Ret.), Chillicothe, OH,
on behalf of American Veterans (AMVETS)**

Mr. Chairman and Members of the Subcommittee:

Thank you for providing AMVETS (American Veterans) the opportunity to testify regarding the issue of disability claims ratings and benefits disparities within the Veterans' Benefits Administration.

This hearing is very important in as it addresses an issue that continues to plague the Veterans' Benefits Administration (VBA) and leaves veterans frustrated and suspicious of the system that is in place to support them after their service to our Nation. In examining the factors that have led to the disparities in claims ratings, two large over-lying conditions are present that have allowed the gaps in ratings to exist and several circumstances have occurred which have exacerbated the problem.

First and foremost, we are working with a system that is based on humans making decisions. Their perceptions, understandings of conditions, and occasional mistakes are going to play a role in disparities. If this was the only issue then the disparities would not be regionally based they would be proportionally distributed throughout VBA. However, there is evidence that displays disparities between Regional Offices. AMVETS believes these disparities are caused by two separate but related groups within the claims process: (a) the Veteran Service Representative (VSR), the Rating Veteran Service Representative (RVSR) the Decision Review Officer (DRO) on the rating side; and (b) the Compensation and Pension Doctors (C&P) whose evaluation of a veteran is used by the regional offices to decide a claim.

The reason these two groups have such a great influence on the outcome of the veterans claims and why there are regional disparities is due to the personalities of the doctors, the raters and review officers, and the personalities of the Regional Offices as a whole. These regional personalities develop because new raters and DROs are trained by the region, and styles and common terms and language are used by the raters when filing a claim. Terminology such as "full range of motion" compared to "essentially full range of motion" could change a rating by 10 percent. Likewise, physician's perceptions and similar language usage can alter a claim. Veteran Service Officers (VSO) will state they routinely see Compensation and Pension Exams which will describe the patient with cookie cutter language leaving room for subjective interpretation.

In addition to these personalities that determine compensation on similar if not identical claims with a broad range of outcomes is the backlog of claims that are in the VBA and the performance credit system that monitors the number of claims filed by the raters and DROs. Currently, there is no oversight of the quality of work the DROs perform. As identified by the AMVETS sponsored "National Symposium for the Needs of Young Veterans," DROs are evaluated on the number of claims they submit, but there is no distinction between positives and negatives in the performance evaluation. There is only a requirement to process a certain number of claims and they receive credit for all claims they move forward, regardless of the number of that are overturned or remanded. The backlog has increased the challenge to push more claims through, but because of the need to push them through, incomplete and poorly written claims are routinely submitted and remanded cycling the claim through the system a second or third time, exacerbating the systems backlog.

AMVETS suggests three recommendations which will assist in narrowing the disparities in claims and reduce the backlog. First, a centralized training facility that will be tasked with teaching new raters and DROs in a standardized outlined process in filing and reviewing claims. This will remove much of the regional personality that affects the disparity in the claims at the rater/reviewer level. Secondly, there needs to be improved oversight of both the rater/reviewer and the C&P doctors. In regard to the C&P, oversight should be in place to ensure the examiner's guide is being utilized. This could be done through a "whistle blower" program that will allow veterans to feel safe in identifying C&Ps who are misdiagnosing claimants, or any other mechanism that could track validity of physical exams. Oversight could be improved in the rating and review of claims also. A system needs to be developed that will not only ensure claims are being filed, but that claims are being filed properly and completely. H.R. 3047 makes efforts to improve the credit received system under which the DROs and RVSRs currently work. This legislation would not credit a regional office for a claim until the expiration of the appellate period. This system or a system that monitors the ratio of cases remanded or overturned to the total number of cases referred is essential in improving the claims process. Lastly, understanding this is a two- to three-year process, hiring more staff to reduce the burden of the backlog is critical. There is no single, simple solution to the disparity problem,

but identifying the roots of the problem and tasking VA with finding solutions to these problems is critical if improvements are going to be recognized in the claims system.

Mr. Chairman, this concludes my testimony.

**Prepared Statement of David E. Hunter, Ph.D., Research Staff Member,
Cost Analysis and Research Division, Institute for Defense Analyses**

Institute for Defense Analyses Study on Analysis of Differences in Disability Compensation in the Department of Veterans Affairs

Mr. Chairman and Members of the Subcommittee, I am pleased to come before you today to discuss IDA's work on disability compensation conducted for the Department of Veterans Affairs (VA). Let me begin with some background on the study and then I will summarize findings and recommendations.

I. Introduction

A total of 2.6 million veterans were receiving disability compensation as of September 2005. The average yearly award for the entire United States was \$8,890, and the average varied across states from more than \$12,000 in New Mexico to less than \$8,000 in Ohio.

In addition, the percentage of veterans receiving compensation differed from state to state. Nationwide, 10.8 percent of veterans were receiving compensation, and this varied from nearly 18 percent in Alaska to about 7 percent in Illinois.

In May 2005, the VA asked the Institute for Defense Analyses (IDA) to conduct a study of the major sources of the observed variation across states in:

1. The average payments to veterans receiving disability compensation; and
2. The percentage of veterans receiving disability compensation.

My testimony today will be based on the results of that study, which have been documented in IDA Paper P-4175.

There are two potential reasons for the observed state-to-state variations in average awards. First, there may be systematic differences across states in the claim adjudication process. Second, the variation may reflect differences across states in the characteristics of the veteran populations.

Our study quantified the amount of variation attributable to states having veteran populations with different characteristics. To do this, we identified and collected relevant data on disability compensation recipients and the veteran population and used these data to test a wide variety of hypotheses. We used data as of September 2005 as the baseline for our analysis. To identify historical trends, we also examined available historical data.

II. Impact of Maximum Awards

Payments to veterans are based on overall disability level, from 0 percent to 100 percent in increments of 10 percent. In addition, veterans may receive an award of Individual Unemployability (IU), which pays them the equivalent of 100 percent disability.

We found that the percentage of recipients receiving a maximum award (100 percent or IU) explains the vast majority of the observed state-to-state variation in average compensation. We calculated that 94 percent of the variation was explained solely by differences across states in the percentage of compensation recipients receiving a maximum award.

This result reflects two underlying facts. First, although veterans receiving maximum awards make up a small percentage (17 percent) of all compensation recipients, they receive the majority (58 percent) of the total compensation dollars. Second, there is variability across states in the percentage of compensation recipients receiving maximum awards, ranging from a low of 10 percent in Alaska to a high of 30 percent in New Mexico.

For the maximum awards, we found the IU awards exhibited the greatest variability across states and alone accounted for 75 percent of the observed variation in average awards. The percentage of compensation recipients receiving IU per state ranges from a low of 3 percent in Maryland to a high of nearly 20 percent in New Mexico.

Given these findings, the key issue our study had to address was: To what extent do the state-by-state variations in maximum awards reflect different treatment of similar veterans and to what extent can they be explained by differences across states in the veteran populations?

III. Demographic and Claim-Specific Factors

We tested a wide variety of demographic and claim-specific factors to identify those that influence the award outcomes. We identified three major factors that contribute to the observed variation across states in average disability compensation awards.

1. Post Traumatic Stress Disorder (PTSD). We found that all states have high average awards for veterans with PTSD. However, there are large differences across states in the proportion of compensation recipients with a PTSD award. This difference in the percentage of recipients with a PTSD award accounts for 40 percent of the observed variation in average awards across states.
2. Power of Attorney (POA) representation. Nationwide, veterans with POA representation receive an average annual award of over twice that of veterans with no POA representation. We found that differences across states in the percentage of claims with POA account for 16 percent of the variation in average award across states.
3. Period of service. The average award for Vietnam veterans is \$11,670—the highest for any period of service. As a single predictive factor, differences across states in the period of service of recipients accounts for 8 percent of the observed variation in average awards.

We calculated the combined effect of the three main factors that we identified: PTSD, power of attorney, and period of service. Note that these factors are correlated, and we could not simply add the percentage of variation explained by each single factor to calculate their combined explanatory power. Taking account of the correlations, we found that 50 percent of the variation across states is explained by these three factors.

Using a more detail model that included several demographic factors related to the veteran's county of residence, which proved to correlate with average awards, we found that as much as 70 percent of the variation across states is due to differences in the recipient populations. While these observed correlations are of interest, it is important to be careful in interpreting them; they almost certainly do not reflect direct causal relationships.

IV. Variation in the Percentage of Veterans Receiving Compensation

Our second area of study was the sources of differences in the percentage of veterans receiving compensation.

Two top-level factors influence the percentage of veterans receiving compensation. These factors are application rates and adjudication results. Of these two factors, we found application rates to be more important than adjudication results in explaining variation across states. Using available data over the past 10 years, we calculated that differences in application rates explained over 70 percent of the variation in the percentage of veterans receiving compensation.

We also tested a wide variety of demographic factors to identify those that influence the percentage of veterans receiving compensation. We found that military retirees are over four times as likely to receive compensation as non-retirees. This alone accounts for over 40 percent of the variation across states. The percentage of veterans receiving compensation also varies by period of service. We calculated that differences in state veteran populations by period of service account for 12 percent of the variation across states. Unfortunately, available veteran population data and demographic information on all applicants are insufficient to quantify the total variation accounted for by the combination of these demographic factors.

V. The Adjudication Process

As noted above, we found that state-to-state differences in compensation recipients explain 50 percent to 70 percent of the variation in average awards. This implies that as much as 30 percent to 50 percent of the variation in average awards could be due to differences across states in the adjudication process. We examined the VA's adjudication process and found that most rating decisions are made locally and often call for subjective judgments. We also found that initial and ongoing rater training varies by regional office and has changed over time. On-the-job training and mentoring, an important source of rater education, promotes uniformity within a regional office. The current national quality review program (STAR) focuses on accuracy of individual claims and does not attempt to promote consistency. There is no program to monitor trends in ratings across regional offices aimed at improving understanding of regional differences. For these reasons, the current adjudication process has the potential for allowing regional differences to develop and persist.

VI. Recommendations

Based on our findings and observations, the IDA report presented six recommendations for consideration by the VA.

1. Standardize initial and ongoing training for rating specialists.

The VA should consider preparing a set of test cases as part of ongoing training procedures.

2. Standardize the medical evaluation reporting process.

Many raters identified variation in quality of medical reports as a possible cause of variation in awards and stated that poor quality reporting hinders their ability to make an accurate rating decision.

3. Increase oversight and review of rating decisions.

The VA could strategically select a more significant fraction of rating decisions for review. This selection process should target claims with high leverage and evaluate each on service connection, degree of disability, and IU status determination.

4. Consolidate rating activities to a central location.

Consolidation would remove many of the underlying differences across regional offices that contribute to potential inconsistencies in decisions. Realizing that this may not be feasible, we note that consolidation to fewer regional offices or having regional offices specialize for certain claim types would also improve consistency.

5. Develop and implement metrics to monitor consistency in adjudication results.

These metrics would target the key factors that impact the variations in average awards and the percentage of veterans receiving compensation.

6. Improve and expand data collection and retention.

The ability to monitor variances is currently limited by lack of available data. Most notably, the VA has not historically tracked data on denied claims. Such data are needed to further understand the underlying reasons for differences across states in the composition of claim recipients. For instance, data do not exist to show how much the denied claims contribute to differences across states in the mix of compensation recipients.

Mr. Chairman and Members of the Subcommittee, that concludes my statement, and I am available for questions.

Prepared Statement of Jon A. Wooditch, Deputy Inspector General, Office of Inspector General, U.S. Department of Veterans Affairs

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, I am pleased to be here to address the Office of Inspector General's (OIG) report, *Review of State Variances in VA Disability Compensation Payments*, issued May 19, 2005. Today, I will summarize the report and our subsequent activity relating to the report, and provide observations on the remaining actions needed to reduce unacceptable variances in average annual disability compensation payments. With me is Joseph Vallowe, Deputy Assistant Inspector General for Management and Administration, who can answer questions about implementation of OIG recommendations and our work since the report was issued.

THE OIG REPORT

Our review confirmed that variances in average annual disability compensation payments by state have existed for decades. In trying to understand why these variances exist, we identified and assessed more than 20 possible factors. Based on our assessment, we discovered that some of the factors contributing to differences in average payments by state, such as the veteran's period and branch of service, number of dependents, and disabling conditions, are not within the Veterans Benefits Administration's (VBA) control. Since these factors are not within VBA's control and all veterans are not identical, we concluded that some level of variance across states is expected.

On the other hand, we also discovered that some of the factors that impact average payments are within VBA's control, such as disability rating decisions. To better understand the impact of rating decisions on the variance, we analyzed claims data for fiscal year (FY) 2004, and concluded that much of the information needed to

make these decisions is subject to varying degrees of interpretation and judgment, by both veterans when providing information on their medical condition and VBA claims adjudicators when assessing this information for rating purposes. We also determined that the degree of rater subjectivity can be influenced by differences in the way medical examination results are presented, by vague criteria set forth in the Rating Schedule for some disabling conditions, and by the amount of training and rater experience. In short, subjectivity can lead to inconsistencies in rating decisions, which can influence variances in average annual disability compensation payments nationwide. As such, the issue is not whether a variance exists but whether the magnitude of the variance is acceptable.

Our report included eight recommendations aimed at improving consistency in rating decisions in order to reduce unacceptable variances. VBA has taken acceptable action to implement those recommendations. In particular, our report recommended that VBA conduct a scientifically sound study of the major influences on compensation payments in order to develop data and metrics for monitoring and managing variances. The December 2006 Institute for Defense Analyses (IDA) report conducted as a result of this recommendation confirmed our review findings and made meaningful recommendations to assist VBA in understanding and reducing unacceptable variances.

Other key actions taken by VBA in response to our recommendations include:

- Coordinating with the Veterans' Disability Benefits Commission to discuss issues pertaining to revising and clarifying the Rating Schedule.
- Forming the Consistency Analysis Study Group, which provided a plan to identify, analyze, and rectify inconsistencies in disability evaluations.
- Deploying 57 standardized medical examination templates that are used to submit examination results to VBA for rating decisions.
- Hiring 1,100 additional benefits processing staff and providing additional standardized training for rating decision makers.
- Enhancing outreach efforts by mailing 325,000 letters to veterans in the six states with the lowest average disability compensation payment in FY 2004, advising them of steps to follow if they want to reopen their disability claim.

OIG ANALYSIS OF CURRENT STATUS AND REMAINING ACTIONS

In preparation for this hearing, we obtained updated information on average annual disability compensation payments, reviewed the IDA report, and updated our information on VBA activities since our report was issued with the purpose of identifying what remains to be done to improve rating consistency and reduce unacceptable variances.

In our 2005 report, we indicated that the variance in average annual disability compensation payments between the highest and lowest states was \$5,043 in FY 2004. We recently obtained compensation payment data by state for FYs 2005 and 2006. Because VBA is in the process of migrating disability benefit claims data from the Benefits Delivery Network system to the VETSNET system, we were unable to obtain complete data for FY 2007. The variance was \$5,061 for FY 2005 and \$5,105 for FY 2006. While the trend in variances continues to increase, it is doing so at a much lower rate than in the previous 5 years, which averaged \$332 a year. We also discovered that one reason for this decline can be attributed to more consistent ratings for new claims. In fact, the national variance in new claims declined from \$6,054 in FY 2004 to \$4,477 in FY 2006. This was directly attributed to an increase in average payment by the lowest state and a decrease in average payment by the highest state.

While some progress has been made, VBA remains challenged to improve the consistency of rating decisions. To achieve this, we believe further efforts are needed in monitoring and measuring variations in rating decisions by state and VBA regional offices. In particular, we recommend that VBA review claims folders for particular diagnostic codes or body systems where ratings fall outside the expected variance range to determine whether the rating is justified or explained by unacceptable causes, such as incorrect or subjective application of the standards. VBA should incorporate what it learns from these reviews to improve rating consistency nationwide. This approach is consistent with the plan submitted by the Consistency Analysis Study Group and with IDA's recommendations.

In response to our 2007 Major Management Challenges, VBA stated that it conducted a pilot project to monitor the consistency of decision making for rating-related claims and conducted a consistency review focusing on evaluations of Post Traumatic Stress Disorder (PTSD) claims from a regional office identified as a statistical outlier. VBA also developed a plan to expand its Systematic Technical Accuracy Review (STAR) quality assurance program to enable increased sampling, ex-

panded rating data analysis, and focused disability decision reviews. During FY 2008, VBA plans to begin quarterly monitoring of rating decisions by diagnostic code, complete the 2007 pilot by conducting consistency reviews focused on Individual Unemployability claims from a statistical outlier regional office, and increase staff to accomplish additional STAR reviews.

Our report also identified the Rating Schedule as a contributing factor to the subjectivity associated with the disability rating process. The Veterans' Disability Benefits Commission was charged with evaluating the Rating Schedule and making recommendations for changing or updating it. We defer to the Commission's recommendations, but would like to point out that effectively dealing with the issue of inconsistency in disability ratings cannot entirely occur until the subjectivity inherent in the Rating Schedule is addressed.

CONCLUSION

In closing, we strongly encourage VBA to continue its efforts toward identifying and reducing unacceptable variances. Implementation of VBA's Consistency Analysis Study Group plan and IDA's recommendations will assist VBA in improving the consistency of ratings decisions. While VBA has made some progress, further efforts are needed to monitor and measure variations in award decisions by state. Unacceptable variations should be thoroughly evaluated to include in-depth reviews of individual claims that deviate from expected norms. Information obtained from these reviews should be used to improve consistency in rating decisions nationwide. Expansion of the responsibilities and staff of the STAR quality assurance program will also be important to achieving greater consistency in rating decisions.

Mr. Chairman, that concludes my remarks and thank you once again for the opportunity to discuss this important issue. Mr. Vallowe and I would be pleased to answer any questions.

Prepared Statement of Ronald R. Aument, Deputy Under Secretary for Benefits, Veterans Benefits Administration, U.S. Department of Veterans Affairs

Mr. Chairman and members of the Subcommittee, it is my pleasure to be here to discuss the Veterans Benefits Administration's (VBA) response to the Institute for Defense Analyses' (IDA) *Analysis of Differences in Disability Compensation in the Department of Veterans Affairs*. I am pleased to be accompanied by Mr. Bradley G. Mayes, VBA's Director of the Compensation and Pension Service. Today I will discuss the various initiatives underway within VBA that support the recommendations put forth by IDA to improve the quality and consistency of the disability claims processing.

Background

In December 2004, media reports identified differences in average disability compensation payments across states. In response, the Secretary of VA requested the Office of Inspector General (OIG) to conduct a review of disability payments. OIG examined benefit payment data for the six states with the lowest average payments and the six with the highest average payments to determine the factors that contributed to the differences. OIG's report concluded that the factors, to include demographics, were complicated and intertwined, and recommended that VA pursue a scientific study to further understand the influences on disability compensation payments.

In May 2005, the Department of Veterans Affairs contracted with the Institute for Defense Analyses to better understand the potential causes of the differences in disability payments. The IDA study was structured to determine if a significant correlation to one or more variables could be identified that contribute to the variance.

Findings from IDA Study

IDA identified several major factors that individually contribute to the observed variation in average compensation. These factors include:

- Distribution of veterans with ratings of 100%;
- Types of disabilities (including PTSD and other mental disabilities);
- County of residence;
- Median family income;
- Percent of the population with physical or mental disability;
- Population density;
- Representation by power of attorney; and

- Period of service.

Other key drivers include application rates, which influence the percentage of the veteran population receiving disability benefits, and the percentage of beneficiaries that are military retirees.

It is important to understand that the average payments being compared in the IDA study cover all veterans currently receiving VA disability compensation benefits, and that the decisions that awarded these benefits have been made over a period of more than fifty years. The average payment for compensation recipients is therefore not necessarily reflective of the experience of veterans currently applying for disability compensation benefits. In order to assess differences in VA benefits currently being awarded to recently separated veterans, VA also looks at average payments to veterans who are added to VA's disability compensation rolls during the year.

Based on the study results, IDA made six recommendations aimed at critical aspects of the adjudication process they found most likely to affect the consistency of claims determinations. The recommendations are:

- Standardize initial and on-going training for rating specialists
- Standardize the hospital evaluation reporting process
- Increase oversight and review of rating decisions
- Consider consolidating all or selected parts of the rating process into one location
- Develop and implement metrics to monitor consistency in adjudication results
- Improve and expand data capture and retention

VBA Response to IDA Recommendations

I will respond to each recommendation in turn and discuss how VBA is working to achieve the intended outcomes of that recommendation.

Standardize initial and on-going training for rating specialists

Critical to improving claims accuracy and consistency is ensuring that our employees receive the essential guidance, materials, and tools to meet the ever-changing and increasingly complex demands of their decision-making responsibilities. To that end, VBA has deployed new training tools and centralized training programs that support accurate and consistent decision-making.

New hires receive comprehensive training and a consistent foundation in claims processing principles through a national centralized training program called "Challenge." After the initial centralized training, employees follow a national standardized training curriculum (full lesson plans, handouts, student guides, instructor guides, and slides for classroom instruction) available to all regional offices. Standardized computer-based tools have been developed for training decision-makers (71 courses completed and an additional 5 in development). Training letters and satellite broadcasts on the proper approach to rating complex issues are provided to the field stations. In addition, a mandatory cycle of training for all Veterans Service Center employees has been developed consisting of an 80-hour annual curriculum.

VBA already has in place a skills-certification process for veteran service representatives, and we are developing a skills-certification process for rating specialists. Additionally, we have increased our Systematic Technical Accuracy Review (STAR) staff and tasked it with more oversight visits of our regional offices and greater responsibilities for training our decisionmakers.

Standardize the hospital evaluation reporting process

VA has made significant progress in our efforts to standardize the medical evaluation process. VA's Compensation and Pension Examination Program (CPEP) continues to improve the examination process through the use of templates, quality reports, and examiner certification.

To date CPEP has developed 58 computerized examination templates based on associated worksheets that cover a variety of body systems and disabilities. The templates guide the examiner through specific examination types to ensure pertinent information is obtained and included in the examination report. The templates have been deployed to all VA medical care sites where Compensation and Pension Service (C&P) examinations are conducted.

A critical component of the C&P examination process is the examination request generated by VBA and submitted to the Veterans Health Administration (VHA). Examination requests must properly identify the specific examinations to be conducted

and provide accurate explanations for any medical opinions that are required. To ensure the quality of these requests, CPEP staff review a sampling of examination requests from all regional offices on a monthly basis.

The compensation and pension disability examination is often a key component of the VBA disability determination process. To ensure the quality of these reports, CPEP conducts a monthly review of a sampling of completed exams generated by the Veterans Health Administration (VHA) medical facilities. VHA instituted a performance measure on the quality of C&P examinations in 2004. CPEP quality reviews are used to calculate this performance metric. Contract examinations are subject to internal quality reviews that parallel the CPEP process.

In FY 2008, through CPEP, VHA will implement an examiner certification program for all examiners performing compensation and pension disability examinations. The examiners themselves are expected to undergo specified computerized training modules relevant to C&P examinations and be certified to perform these disability examinations.

Our CPEP initiatives are instrumental to achieving our quality goals. VBA and VHA continue to work together to develop and refine tools that will ensure even greater consistency in the hospital disability evaluation reporting process.

Increase oversight and review of rating decisions

To ensure accurate benefit decisions, VBA has established an aggressive and comprehensive program of quality assurance and oversight to assess compliance with VBA claims processing policy and procedures and assure consistent application.

The Systematic Technical Accuracy Review (STAR) program includes review of work in three areas: rating accuracy, authorization accuracy, and fiduciary program accuracy. Overall station accuracy averages for these three areas are included in each regional office director's performance standards and the station's performance measures. STAR results are readily available to facilitate analysis and to allow for the delivery of targeted training at the regional office level. C&P Service conducts satellite broadcast training sessions based on an analysis of national STAR error trends. Over the last 4 years, our quality has risen significantly from 81 percent to 89 percent.

Site surveys of regional offices address compliance with procedures, both from a management perspective in the operation of the service center and from a program administration perspective, with particular emphasis on current consistency issues. Training is provided, when appropriate, to address gaps identified as part of the site survey.

Consider consolidating all or part of the rating process into one location

The consolidation of specialized processing operations for certain types of claims has been implemented to provide better and more consistent decisions. Three Pension Maintenance Centers were established to consolidate the complex and labor-intensive work involved in ensuring the continued eligibility and appropriateness of benefit amounts for pension recipients. We are exploring centralization of all pension adjudications in these Centers.

In November 2001, a Tiger Team was established at the Cleveland Regional Office to adjudicate the claims of veterans age 70 and older. VBA also established an Appeals Management Center to consolidate expertise in processing remands from the Board of Veterans' Appeals. In a similar manner, a centralized Casualty Assistance Unit was established to process all in-service death claims. VBA also established two Development Centers in Phoenix and Roanoke to assist regional offices in obtaining the required evidence and preparing cases for decision, and centralized the processing of all radiation claims to the Jackson Regional Office.

The Benefits Delivery at Discharge (BDD) Program provides servicemembers with briefings on VA benefits, assistance with completing applications, and a disability examination before leaving service. The goal of this program is to deliver benefits within 60 days following discharge. VBA has consolidated the rating aspects of our BDD program to two rating sites, which will bring greater consistency of decisions on claims filed by newly separated veterans.

We continue to look for ways to achieve additional organizational efficiencies through the consolidation of other aspects of our claims processing, including death benefits, fiduciary activities, and telephone service.

Develop and implement metrics to monitor consistency in adjudication results

In addition to conducting quality reviews, C&P Service's STAR staff are beginning to conduct analyses to identify unusual patterns of variance in claims adjudication by diagnostic code, and then review selected disabilities to assess the level of decision consistency among and between regional offices. These studies are used to identify where additional guidance and training are needed to improve consistency and accuracy, as well as to drive procedural or regulatory changes.

Improve and expand data collection and retention

VBA's data management systems have been substantially improved in recent years with such programs as the VETSNET suite of applications and the establishment of our data warehouse. VETSNET and the analytical tools in our data warehouse provide our employees and managers with more robust data, which better support information management and analysis.

Mr. Chairman, this concludes my testimony. I would be pleased to answer any questions you or other members of the Committee may have.

**Statement of Steve Smithson, Deputy Director,
Veterans Affairs and Rehabilitation Commission, American Legion**

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to present The American Legion's views on disability claims ratings and benefits disparities within the Department of Veterans Affairs (VA) Veterans Benefits Administration (VBA). The American Legion commends the Subcommittee for holding a hearing to discuss this important and timely issue.

May 2005 VA Office of the Inspector General Report

In response to a December 2004 *Chicago Sun-Times* article revealing disparities in VA disability compensation payments on a state-by-state basis, the Secretary of VA ordered the VA Office of the Inspector General (VAOIG) to investigate the matter. On May 19, 2005, the VAOIG issued a report addressing the reasons for differences in average monthly VA disability compensation made to veterans living in different states.

The VAOIG noted that for fiscal year (FY) 2004, average annual payments by state ranged from \$6,961 to \$12,000, a difference of over \$5,000. According to the VAOIG the highest paying states were: New Mexico (the highest), Maine, Arkansas, West Virginia, Oklahoma, and Oregon. The lowest paying states were: Indiana, Michigan, Connecticut, Ohio, New Jersey, and Illinois. The VAOIG concluded that no single variable factor was responsible for the discrepancies in compensation payments.

The VAOIG found that there were sixteen possible factors that could cause compensation payment disparities. In its analysis, the VAOIG concluded that there were ten factors that the VA could not control and there were six factors over which the VA could exert some control.

According to the VAOIG, the factors that the VA cannot control are: power of attorney representation, enlisted versus officer, military retirees versus non-military retirees, participation of veterans receiving benefits, period of service, branch of service, dependents, special monthly compensation, age, and the average number of disabilities. The six factors that the VAOIG indicated the VA has some control over are: pending claims, brokered claims, appeal rates, transferred cases, grant rates, and rater experience.

Finally, the VAOIG stated that some disabilities are inherently more susceptible to variations in rating determinations. The VAOIG indicated that the Rating Schedule (38 C.F.R. Part 4), because it is a 60-year-old model, may also cause some inconsistencies. The VAOIG identified post traumatic stress disorder (PTSD) evaluations, total disability based on PTSD (including individual unemployability or IU), and all veterans rated with IU as rating decisions susceptible to variations.

The VAOIG focused on mental disabilities because of several reasons: mental disabilities have a high variable rate (compared to the other parts of the body systems evaluated by the Rating Schedule); mental disabilities have the highest average evaluation (58 percent); and PTSD, which is a mental disability, is one of the fastest growing service-connected disabilities.

The VAOIG reviewed 2,100 PTSD cases at seven regional offices (RO). They found that the ROs approach stressor verification requirements differently from state to state. In particular, there were differences in how the ROs verified veterans' allegations about traumatic events in service. The VAOIG also found that, in general, once veterans with PTSD obtain a 100 percent evaluation their receipt of mental health treatment declined.

The VAOIG noted that there were several instances of benefits fraud in the past few years. It was stressed that based on an income match, 8,486 veterans in receipt of IU benefits reported earned income to the Internal Revenue Service (IRS). The VAOIG indicated that some or all of the 8,486 veterans in receipt of IU benefits and in receipt of earned income, may not be entitled to IU benefits.

The VAOIG also surveyed 1,992 rating specialists and Decision Review Officers (DROs) and 1,349 responded. The relevant results indicate:

- 65 percent stated they did not have enough time to provide timely and quality service;
- 57 percent indicated that they had difficulty meeting production standards if they took time to adequately develop claims and thoroughly reviewed the evidence before making a decision;
- 41 percent declared that 30 percent or more of the claims they decided were not ready to rate when presented for rating;
- 20 percent estimated that of the claims not ready to rate more than 10 percent were actually rated without all the needed information; and
- 52 percent responded that they could assign two or more different ratings for the same medical condition.

The May 2005 VAOIG report contained the following recommendations:

1. Conduct a study to detect and correct unacceptable payment patterns.
2. Work with the Veterans' Disability Benefits Commission to clarify and revise the rating schedule.
3. Conduct Review of rating practices for certain disabilities such as PTSD and IU.
4. Expand national VA quality review to include review of PTSD evaluations for consistency, and to determine if the stressor was fully documented.
5. Coordinate with the Veterans Health Administration to improve the quality of medical examinations.
6. Ensure that VA regional offices are adequately staffed and equipped.
7. Consider establishing a lump-sum payment option in lieu of recurring monthly payments for veterans with disability evaluations of 20 percent or less.
8. Analyze differences in claim submission patterns to determine if certain veteran sub-populations, such as World War II veterans or veterans living in certain areas, have been underserved and perform outreach based on the results of the analysis.

For years, The American Legion and other veterans service organizations (VSOs) have stated that the driving force behind most VA adjudications is the need for VA to process as many claims as possible in the fastest possible time. This emphasis on quantity and speed of adjudication results in premature adjudications, improper denials of benefits, and of course, inconsistent decisions.

The VAOIG report confirms much of what we have been saying about the VA claims adjudication process. Essentially, the VAOIG acknowledges that because the VA often does not take the time to obtain all relevant evidence and information, there is a good chance that these claims are not properly adjudicated. The VAOIG, to its credit, quoted raters and DROs who indicated that VA management is much more concerned with quantity than quality. Some VA adjudicators stated that awards and bonuses are centered around production. The report, however, did not mention that in most claims where the VA does not obtain all relevant information, the claim is denied or under evaluated.

The overall tone of the VAOIG report was disappointing. It implied that where the VA fails to develop claims properly, there are *only* improper *grants* of benefits. The VAOIG ignored the fact that many deserving veterans have their claims denied or under evaluated because the VA, in a rush to claim work credit, failed to, or refused to, comply with the duties to assist and notify. Although the VAOIG conceded that VA often makes errors, it failed to consider or discuss whether these errors could result in the unlawful denial of benefits or the under evaluation of service-connected disabilities.

This negative tone exists throughout the VAOIG report. For example, when discussing the differences between adjudications in New Mexico and Illinois, the VAOIG noted that New Mexico had the highest average monthly VA disability com-

pensation payments at \$11,206. The VAOIG indicated that the high New Mexico payments “may be a cause for concern.” The VAOIG, however, did not express any concern about the low paying ROs. Apparently, the possibility that some veterans may be underpaid or unfairly denied did not alarm the VAOIG.

The VAOIG also attacked the current rating schedule as “a 1945 model that does not reflect modern concepts of disability” even though most of the major body systems have been updated in the last 20 years. Also, it did not define the term “modern concepts of disability” and did not explain why the current rating schedule would cause inconsistent payments.

According to the VAOIG, whether a veteran was represented by a VSO was the single most important factor in determining the amount of compensation payments made to that veteran. The VAOIG reported that on the average, veterans who are represented by a VSO, receive \$6,225 more per year than those veterans without representatives. This is a telling statistic. VA operates a disability benefits program that is required to be non-adversarial and *ex parte*. (See 38 C.F.R. §3.103(a).) The huge disparity between non-represented veterans and represented veterans supports the conclusion that VA’s claims adjudication system is more adversarial than VA cares to admit.

Additionally, the VAOIG report appears to assume that the states with high levels of compensation payments are doing something wrong. The VAOIG apparently did not consider that the states paying a high level of benefits are making correct legal decisions—doing a better job than the states with low levels of payments. The American Legion asserts that it is quite possible that some, if not all, ROs are incorrectly denying a considerable number of claims for compensation and under-evaluating some service-connected conditions. We believe there are more veterans being unfairly denied benefits and underpaid benefits than there are veterans who are being unfairly granted benefits and/or overpaid benefits.

This conclusion is based on the following fact. In the past few years The American Legion has jointly reviewed the quality of adjudications in approximately 40 ROs. Our quality review team has found errors in all of the VA offices reviewed, including the regional office in New Mexico. For example, the review of the VA regional office in New Mexico generated the following comments.

Some of the New Mexico rating decisions reviewed by The American Legion team exhibited lack of knowledge or carelessness. For example:

- *In some instances the RO incorrectly denied service connection for a congenital disease because the RO misinterpreted 38 C.F.R. §4.9.*
- *In some instances the Global Assessment of Functioning (GAF) score was ignored.*
- *The effective dates assigned for individual unemployability (IU) created problems. According to an RO official, the RO assigned an effective date from the receipt of the VAF 21-8940—instead of the date of the informal claim for IU. The official stated this was a recurrent problem in this RO.*
- *Some VA examinations were inadequate.*
- *Some ratings concerning claims for increase should have, but did not, consider 38 C.F.R. §3.400(o)(2).*
- *Some inferred issues were either missed or ignored.*
- *The rules concerning new and material evidence were not correctly applied. In some instances, special monthly pension (SMP) was not correctly considered or improperly rejected.*
- *In some cases, the RO issued confusing and misleading development and notice letters.*
- *In some instances the RO failed to clarify the appellate process to veterans who clearly were confused.*

Many of the types of errors identified in New Mexico were similar to the errors that we found in low paying ROs like Chicago. If the New Mexico RO, the highest paying office according to the VAOIG, exhibited these underpayment and improper denial problems, it is possible that all VA ROs under-compensate some claimants to various degrees. The VAOIG never considered this possibility. In fact, all ROs reviewed by The American Legion’s quality review team exhibited patterns of improper denial and underpayment. Of course, some ROs exhibited much better quality than other ROs.

Also, in FY 2007 the Board of Veterans’ Appeals (BVA or Board) remanded or reversed 56 percent of the appeals it reviewed. It is very unlikely that any of those remands or reversals involved overpayments of benefits or the improper grant of service connection. The BVA reversal/remand rate reveals that ROs commit many errors adverse to veterans.

In spite of the inescapable fact that there is a serious quality problem within the ROs that unfairly deprives many deserving veterans of VA benefits, the VAOIG did not mention or even allude to this situation. This omission is a disservice to veterans and casts doubt on most of the VAOIG conclusions.

Institute for Defense Analyses (IDA) Report

In response to the VAOIG's recommendation, VA contracted IDA to conduct a study in order to gain a better understanding of the potential causes of the variances in disability payments.

The IDA offered six recommendations for improving the consistency of VBA's claims adjudication process:

- Standardize initial and on-going training for rating specialists.
- Standardize the hospital evaluation reporting process.
- Increase oversight and review of rating decisions.
- Consider consolidating all or selected parts of the rating process into one location.
- Develop and implement metrics to monitor consistency in adjudication results.
- Improve and expand data capture and retention.

The American Legion agrees with IDA's recommendation to increase VBA oversight and review of RO rating decisions. We also note that this recommendation specifically stated that denied claims should also be reviewed, something the VAOIG did not consider in its investigation and subsequent report.

Regarding its training recommendation, IDA noted that although VBA provides centralized training modules for training purposes, many regional offices supplement this training with material developed locally. IDA also noted that many rating specialists interviewed stated that they received "on-the-job" training from senior raters and identified these individuals as the biggest influence on their rating styles. IDA suggested that a "stronger mechanism" would reduce the potential for persistent differences among regional offices in ratings and ensure that raters VA wide are receiving the same training. IDA further recommended that raters be given standardized test cases, reflecting the most likely areas of variation, as part of an ongoing training process.

The American Legion is appreciative of the importance the Under Secretary for Benefits has placed on training of VBA personnel. We are also aware of the centralized training program that has been implemented; however, a national training standard/requirement, in addition to the centralized training conducted by Compensation and Pension Service (C&P), for regional office personnel is also needed. Consistent and standardized training at each regional office must take place for all personnel—experienced and new hires alike. The American Legion believes it is crucial that such a program be implemented and closely monitored for compliance by the Under Secretary for Benefits. Management in stations not in compliance with such training requirements must be held accountable; otherwise any national or centralized training effort will not be successful.

Additionally, The American Legion also believes it is essential to proper training that information (reasons for remand or reversal) from BVA decisions, Court of Appeals for Veteran Claims decisions, DRO decisions and errors noted in the National Systematic Technical Accuracy Review (STAR) be tracked and examined for patterns. This information should then be analyzed by VBA and provided to ROs in mandatory formal training to ensure that common errors and other discrepancies occurring in regional office rating decisions are not repeated. This information should also be used for remedial training purposes when patterns of errors are identified for specific individuals. Although such data is currently being collected and disseminated to the ROs, it appears that consistent utilization of this data in regular formalized and specific training has been lacking. Unless ROs (both managers and individual adjudicators) learn from their mistakes and take corrective action, there will continue to be a high rate of improperly adjudicated claims, resulting in a consistently high appeals rate and subsequent high BVA remand/reversal rate of RO decisions.

In addition to our training-related concerns discussed above, we also have concerns regarding VA's skill certification testing program to ensure competency and proficiency. C&P conducted an open book (pilot) job skill certification test for veterans service representatives (VSR) several years ago in which the pass rate was extremely low (approximately 23 percent). Even more alarming than the low-test scores was the fact that those who took the test had several years of experience in the position and were considered to be proficient.

C&P subsequently finalized its VSR proficiency test and conducted tests in May and August 2006. Employees participating in the testing underwent 20 hours of

training prior to taking the test. Although the pass rate (about 42 percent) for these tests was much higher than the pilot test, it is still very low and can hardly be considered acceptable. C&P did not conduct any tests in FY 2007.

The American Legion applauds the new testing program as a step in the right direction, but we still have concerns. Although successful completion of the test will be required for promotion or assignment to a rating board, it is not mandatory as a condition of employment in that position and is completely optional. C&P is in the process of developing a test for rating veterans service representatives (RVSR) and DROs, but a timeline for completion or implementation has not yet been determined. Unfortunately, like the VSR test, the test for RVSRs and DROs will not be mandatory as a condition of employment.

The ultimate goal of proficiency or competency testing should be to ensure that an individual in any given position is competent, proficient, and otherwise qualified to perform the duties required of that position. This goal will not be achieved if testing is not mandatory, or is not provided for all levels or for all positions, and remedial training or other corrective action is not required for those who do not successfully pass the test. Although this concept may not be embraced by some, the ultimate goal is to have qualified and competent staff who will provide the best service possible for America's veterans.

Lastly, The American Legion opposes IDA's recommendation supporting rating consolidation. It is likely that some VA managers also like the idea of consolidation because of the economic advantage to the VA. It is cheaper to have 10 or 16 offices than to pay for 57 regional offices. However, in our experience, many of the bigger VA offices have more quality problems than the smaller ROs. The American Legion quality reviews reveal that the fact that raters and DROs are under the same roof does not mean they will all rate claims consistently. Also, consolidation, especially consolidation in low cost of living rural areas, would hamper access to the VA regional offices for many veterans, especially low income and minority veterans. Obviously, that is not a good thing.

Closing

In closing, The American Legion recommends increased oversight by VBA as well as more frequent transferring of RO service center managers in order to create a "national" culture to avoid regional differences and biases. We also recommend the establishment of an independent quality review program with accountability built in for managers and adjudicators. Additionally, until substantive changes are made in the work measurement system, a piecemeal "band-aid" approach will not make a major difference. The creation of a work measurement system that rewards prompt, but fair and complete adjudications would improve consistency and quality. Such changes would be the fastest, least expensive way to make the biggest positive impact on the VA's claims adjudication system.

Mr. Chairman, that concludes my statement. The American Legion welcomes the opportunity to work closely with you and your colleagues on this and any other issue that concerns this nation's veterans.

Statement of Donald R. Lanthorn, Department Service Director, American Legion, Department of Ohio

Mr. Chairman, members of the Committee. My name is Donald R. Lanthorn. I am the Service Director of The Ohio American Legion, a position I have held for 30 years. I appreciate the opportunity to provide my personal perspective as to why Ohio is last among the fifty states in VA benefit dollars received per compensated claimant.

The issue, in my opinion, is multi-faceted and quite complex, with origins back to World War II in some areas. If the purpose is to lay blame, there is plenty to go around. I will address fault on the part of the Department of Veterans Affairs, and both VBA and VHA; the State of Ohio; County Veterans Service Officers, their Commissioners and the State Associations of both; and Veterans Service Organizations are not without culpability.

However, fault may not be as much of an issue as one may surmise, and in the May 19, 2005 "Review of State Variances in VA Disability Compensation Payments" report of the Department of Veterans Affairs, Office of the Inspector General it is noted, in referring to the dollar averages of the clusters of the six highest and lowest ranked states, that "Preliminarily, this suggests that the high cluster may be more problematic than the lower ranked states."

There are several factors in determining compensation received by Ohio Veterans that are the fault of no one.

The IG Report analyzed states by high and low clusters of six states each. Ohio is in the low cluster with Indiana, Michigan, Connecticut, New Jersey, and Illinois. New Mexico, Maine, Arkansas, West Virginia, Oklahoma, and Oregon comprised the high cluster states.

It was noted in the DVA IG Report of May 19, 2005 that demographics play a part in the disparity.

Average military officer VA compensation is less than that of the average of enlisted personnel; hence states with more officers serving in the military would likely reduce their average VA compensation. (High cluster states have 63.4% enlisted personnel receiving VA compensation to an average of 44.4% in the low cluster states.)

Military retirees receive more compensation than their non-military retired peers. (Eleven percent more retirees receiving compensation, 27.6% to 16.6%, among high cluster states.)

Period of Service is a factor in computing average compensation. Vietnam service veterans receive higher amounts, followed by Korean War, World War II and Peacetime veterans. Gulf War veterans receive less VA compensation on average than other periods of service. The numbers of veterans from each state and percentage of veteran population make this a no fault demographic statistic factor. (High cluster, 13% WWII; low cluster averages 23%.)

Further analysis by Branch of Service indicates that Marine Corps veterans receive the highest average amount of VA compensation.

Veterans with dependents receive a higher average amount of VA compensation per year than their peers without dependents. (High cluster averaged 43.8% to low cluster of 30.3% of veterans with dependents.)

Age of recipients is a factor. The average age of the high cluster states recipient was 58 compared to 61 in the low cluster. This suggests younger veterans receive more compensation, but may more closely relate to periods of service, indicating fewer WWII or higher numbers of Vietnam veterans, by percentage, among VA compensation recipients in the high cluster states.

The more service-connected disabilities a veteran has results in higher VA combined ratings for compensation. There is a correlation between the high and low clusters of 3.0 to 2.4, respectively, a 25 percent difference.

The above fact is especially significant if one accepts the premise that those veterans that file their own claims file for fewer disabilities than those who file with a veteran service organization (VSO) or have advocacy representation. It is generally accepted that VSOs recognize secondary conditions the veteran may not, and review the service medical records, a more accurate list of possible service connected conditions than the veterans' recollection. Hence, this supports the facts of the IG report that veterans who receive legal help or aid from advocacy groups receive on average \$11,162 compared with \$4,728 for those who go it alone. The National average is two-thirds receive VSO assistance, however, reportedly forty percent of Ohioans file their own claims. This is a factor that can and should be addressed and will result in increased federal dollars for Ohio claimants, on an average.

The Institute for Defense Analyses (IDA) final report is a scientific study of state-by-state and VA Regional Office variation in disability compensation claims, ratings and benefits. We certainly concur with their findings that 100 percent and Individual Unemployability (IU) are the most significant factors affecting total payments. Although they represent only 17% of compensation recipients, they represent 58% of total compensation payments. IU and often a 100% disability rating can be subjective. These differences alone reportedly were found to explain the vast majority of the variation in average awards across states.

It is also our opinion that "new" or less experienced adjudication personnel would be less likely to make subjective decisions awarding the highest of compensation benefits. We will address this further later in this testimony.

In another area of the IDA study it was noted that military retirees are over four times as likely to receive compensation as non-retirees.

Ohio has only one major military installation and a notable lack of state incentives for retaining military retirees in Ohio may account for a considerable number of benefit dollars, as the IDA study attributes military retirees alone for over 40 percent of the variation in the percentage of veterans receiving compensation.

The IDA study identifies the "key driver" in the variation across states of veterans receiving compensation as the "application rates."

Several studies, including the IDA report addressed consistency across VA Regional Offices and the potential for inconsistencies. We concur with the VA position that if VA addresses accuracy in the decision making process, consistency will take

care of itself. We do support the recommendation of standardized initial and ongoing training for rating specialists.

The IDA report recommends standardized hospital evaluation reporting. For several years The Ohio American Legion would return files to the adjudication officers at Cleveland VARO as “insufficient examination” for PTSD exams where the Global Assessment of Functionality (GAF) score did not match the doctor’s list of symptomology. Rating specialists would use the lesser of the two if we did not, resulting in less VA compensation. We often wondered what happened to those claims without advocates to which we did not have access.

In recent years we send back far fewer for new exams. Have the exams gotten better? Are the doctors more thorough? We doubt it.

We suspect when a claimant has representation that may find an exam suspect the adjudicator gives the examiner an opportunity to “fix it.” Few doctors would remember the patient well enough to add symptomology to their first report. It is our belief that they adjust the GAF score to be consistent with the earlier reported symptomology, which was insufficient to justify the assigned score. This would result in lower compensation ratings.

We earlier alluded that Ohio’s rating specialists are “new” or “less experienced.” As a historical perspective, in 1945 VA “geared up” to handle the wave of incoming World War II claims to be received from returning veterans now offered education benefits, home loan guarantees, and disability benefits, much as a result of the GI Bill. The class of ’45 was born.

Thirty years later in 1975, as these employees were completing their federal service they were replaced with another wave of personnel, many of whom were Vietnam veterans themselves. Again, VA “geared up” to address the needs of this group of returning veterans.

What is different in Ohio in 2005 as the “Class of ’75” finished their 30 years of federal service?

In 2005 VA was in the midst of a 2004–2006 hiring freeze. Key adjudicative positions went unfilled in some instances, filled with lower level employees in others. VA was also experiencing being the victim of their own failed hiring practices of earlier years when efforts were made to hire attorneys and nurses, which they were unable to retain.

In Cleveland, Ohio VA created a “Tiger Team,” a force of senior adjudicators formed by Central Office directive to address the older claims of aged veterans. They developed processing Memorandums of Understanding with other government agencies and excel at handling the claims of our World War II veterans and those claims over a year old from around the country.

As beneficial to the Nation as it is, the Tiger Team represents a significant brain drain in Cleveland’s adjudication ranks.

If the driving factor is the number of claims in determining state rank, Ohio is lacking a single, consistent message to veterans regarding the claims process. Each County Veterans Service Commission and Veterans Service Organization operates independently and within their own budget constraints. Few counties do any outreach and since their funding is from the inside mileage, there is little incentive from county officials to urge greater expenditures in promoting their offices, as one of their services is financial assistance to veterans and their dependents and survivors.

County Veterans Service Officers and County Veteran Service Commissioners now receive their training from the Governor’s Office of Veterans Affairs, which utilizes VA personnel at no cost. Several years ago VSOs provided the training, which emphasized advocacy tips. VA training may be fine for most areas of service, but we liken it to learning how to duck hunt from a duck. It should not be the lone source of trainers.

Many CVSOs recognize the need for other sources of training in their desire for professional excellence and belong to the National Association of County Veteran Service Officers. However, their training sessions are often held in resort areas and participation restricted by their employers, members of the Ohio State Association of County Veterans Service Commissioners. VSCs receive all of their required training in Ohio and unfairly expect the same of their CVSO employees.

Veterans Service Organizations (VSOs) have long been a source of outreach to veterans with local Posts, State Service Officers, house organs at the local and state levels, the distribution of pamphlets and benefit information.

This changed in Ohio as the state’s appropriations to VSOs were of slow growth, then flat lined for several of the recent years. VSO appropriations are given the misnomer of “subsidy,” leading one to believe that the State of Ohio is subsidizing VSO operations, when in fact, VSOs are subsidizing a state function in Ohio where we

have no Department of Veterans Affairs to file claims and provide claimants representation.

The flat lined revenue from the State of Ohio came at a most inopportune time, for The American Legion, as World War II veteran deaths were on the rise followed by membership declines and subsequent lost revenue. Publications were cut back or curtailed, employees in our Service Division were eliminated by attrition and wages and benefits suffered for those remaining. The American Legion Service Division, once 15 full-time employees, is now 10.5 Full-Time Employee Equivalents (FTEE).

Clerical personnel have been replaced by claims representatives using computers to do their own letters, reports, and "status updates" to inquiring claimants. An increasing VA backlog causes increasing status inquiries, and the spiral goes on. Time spent filing claims and providing advocacy representation is often now directed to other matters. Outreach is no longer a goal, as increasing the workload is not an objective of an over burdened, underpaid staff. Meeting deadlines has become the area of emphasis.

In conclusion, Ohio's woes can be addressed quite simply. Although the variances in demographics may never put Ohio at the top of the list of benefits by state, our problem areas can be resolved by the infusion of federal and state dollars.

VBA needs to increase its adjudication staff and attract some experienced adjudicators to Cleveland that may be effective now, not following extensive training. Making the "Tiger Team" an advancement desirable to adjudicators around the country in salary, benefits and workload would go a long way in attracting bidding on vacancies from outside of Cleveland.

VHA exams need to be thorough, and complete, and re-done, if not. VAs work measurement system of "End Products" rewards ROs for work reported, not accuracy or correctness. This is a situation that needs addressed, but is not unique to Ohio.

The State of Ohio needs to centralize its veterans programs in one department, an Ohio Department of Veterans Affairs (ODVA), which Governor Strickland, by Executive Order created a Veterans Study Council to investigate and report to him by year's end.

The Veterans Study Council is addressing the issue of a comparison of benefits available in other states to Ohio. As noted in the IDA report, attracting military retirees back to their roots, into Ohio or retaining those separating from military service as a last duty station will raise the compensation average significantly.

Increased appropriations to VSOs will go a long way in serving veterans. The marketing and outreach by CVSOs or an ODVA would be a wasted effort if VSOs were not prepared at their link in the chain to provide needed services.

The Ohio State Associations of County Veterans Service Officers and Commissioners (OSACVSO & OSACVSC) receive a state appropriation for training. It can be well spent on trainers from beyond VA ranks or sending CVSOs to VSO training programs or the NACVSO schools.

VSOs need to prepare for increased workloads. The Ohio American Legion is addressing salaries and staffing levels as well as we can with available resources. Post Service Officers continue to train to identify potential beneficiaries of VA benefits and get them to claims filing professionals, most often their CVSO.

Ohio has the infrastructure for excellent service to veterans, but its loose knit organization has not served it well during trying economic times.

Piecemeal legislative efforts by well meaning legislators need to be coordinated under a Department of Veterans Affairs and directed into one omnibus legislative bill to correct Ohio's problem areas.

Thank you for this opportunity to present my perspective on Ohio's needed answer to trailing other states in average compensation benefits per veteran.

**Statement of Hon. Charles A. Wilson,
a Representative in Congress from the State of Ohio**

Chairman Mitchell, thank you for providing me the opportunity to participate in today's hearing on this important topic. While I was prevented from attending the hearing in person because of a recent surgery, I am very grateful for the committee's attention to the discrepancies among states in average benefits paid to disabled veterans.

Like many members of this subcommittee, I was disturbed to learn that the level of benefits paid to a disabled veteran seems to depend in part on the state in which that veteran resides. While some variation may be expected, the discrepancy seems too large to be explained fully by natural or demographic factors.

I am convinced that the federal employees responsible for determining a veteran's level of disability are dedicated public servants who keep at heart the interests of the veterans they serve. Despite this, it seems likely that different Veterans Administration Regional Offices have developed unique cultures that have an effect on the level of benefits that they award. I believe that this is an unacceptable state of affairs, and is not fair to veterans who have the right to expect that their claims will be decided impartially and according to statute.

As a representative from Ohio, I was dismayed to learn that my state ranked dead last in the average benefit paid to its disabled veterans. Ohio veterans, who have made the same sacrifices as veterans from every other state, may feel that the system is slanted against them. I do not believe that the Veterans Administration can afford to allow this situation to breed cynicism among the veterans who have sacrificed so much for this nation.

While the Veterans Administration has taken some steps to correct this situation, I believe that more aggressive action should be taken. I commend Chairman Mitchell and Ranking Member Brown-Waite for calling this hearing to bring some much-needed attention and oversight to efforts to level the playing field for veterans in every state. I would also like to thank Congressman Space for his active leadership on this issue. I thank the distinguished witnesses for their testimony, and look forward to working to solve this problem as quickly as possible.

Committee on Veterans' Affairs
Subcommittee on Oversight and Investigations
Washington, DC
November 2, 2007

Honorable Gordon H. Mansfield
Acting Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary Mansfield:

On Tuesday, October 16, 2007, the Subcommittee on Oversight and Investigations of the House Committee on Veterans' Affairs held a hearing entitled *Disability Claims Ratings and Benefits Disparities within the Veterans Benefits Administration*.

During the hearing, the Subcommittee heard testimony from Ronald R. Aument, Deputy Under Secretary for Benefits, Veterans Benefits Administration, U.S. Department of Veterans Affairs. He was accompanied by Mr. Bradley G. Mayes, Director, Compensation and Pension Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs. As a follow-up to that hearing, the Subcommittee is requesting that the following questions be answered for the record:

1. Please explain the Institute of Defense Analyses' (IDA) finding regarding attorney representation. The Subcommittee is concerned that the findings indicate that if veterans hire attorneys, veterans will derive a more favorable outcome for their claims. Does the VA's agree with this impression? If not, please give your reasons.
2. Has the VA ever outsourced claims for purposes of adjudication? If so, please state when this occurred, the number of claims so outsourced, the reason for the outsourcing, and the oversight controls VA implemented to assure the consistency and accuracy of the outsourced adjudications.
3. Please describe how VA is implementing IDA's training recommendations. Please address specifically how VA's training efforts differ from those in the past and provide details about that training; for example, title and brief description of training courses; whether the training is mandatory or not; personnel required to take a particular training module; whether the training includes a testing requirement to ensure that trainees have assimilated the materials.
4. Are VBA personnel who adjudicate claims required to have professional or other certification? If not, please explain why certification is not required and whether VBA plans to require certification in the future. If certification is required, please describe the required certification, how VBA ensures that its personnel have the necessary certification(s), and the consequences to VBA personnel who do not obtain required certifications.

5. With respect to the STAR reviews that are conducted each year, how many STAR reviews are taking place, and what are the outcomes of each of the reviews?
6. The IG, GAO, and IDA have all noted that VBA has tested for accuracy of claims adjudication but not for consistency across offices. What is VBA doing to remedy this defect?
7. If the Veterans Benefits Administration is unable to get information relating to a service member's in-theatre service directly from the Department of Defense to verify stressors contributing to PTSD, what alternate sources are being used to verify stressors when validating a claim in the ratings process?

We request you provide responses to the Subcommittee no later than close of business on Friday, November 30, 2007.

If you have any questions concerning these questions, please contact Subcommittee on Oversight and Investigations Staff Director, Geoffrey Bestor, Esq., at (202) 225-3569 or the Subcommittee Republican Staff Director, Arthur Wu, at (202) 225-3527.

Sincerely,

HARRY E. MITCHELL
Chairman

GINNY BROWN-WAITE
Ranking Republican Member

Questions for the Record
Hon. Harry E. Mitchell, Chairman
Ginny Brown-Waite, Ranking Republican Member
Subcommittee on Oversight and Investigations
House Committee on Veterans' Affairs
October 16, 2007

"Disability Claims Ratings and Benefits Disparities within the Veterans Benefit Administration"

Question 1: Please explain the Institute of Defense Analyses' (IDA) findings regarding attorney representation. The Subcommittee is concerned that the findings indicate that if veterans hire attorneys, veterans will derive a more favorable outcome for their claims. Does the VA agree with this impression? If not, please give your reasons.

Response: The IDA study contained no findings specific to disability claims outcomes for veterans represented by attorneys. What it did find was that claimants who were represented by attorneys, veterans service organizations, and claims agents received, on average, higher compensation payments than those without representation. IDA's comparison was between veterans with any representation (i.e. national and state veterans service organizations, attorneys, and agents) and claimants without such assistance. The Department of Veterans Affairs (VA) does not agree with the position that veterans with attorney representation will have greater prospects for a successful claim. The overwhelming majority of beneficiaries are capably represented by national and State veterans service organizations that perform their services without charge. Currently, paid attorneys and agents represent a very small percent of claimants, although we expect that percent to rise based on the legislation enacted last year to allow attorney representation at the notice-of-disagreement stage in the adjudicative process.

The claims process can be complex. We believe that claimants may find it helpful to seek the assistance of a national or State service organization, which provide their services free of charge, or individuals recognized by VA to provide such assistance. We routinely provide claimants with information about representation. We believe that the free services of national and State veterans service organizations provide the level of counsel needed in virtually all cases.

Question 2: Has the VA ever outsourced claims for purposes of adjudication? If so, please state when this occurred, the number of claims so outsourced, the reason for the outsourcing, and the oversight controls VA implemented to assure the consistency and accuracy of the outsourced adjudications.

Response: The Veterans Benefits Administration (VBA) has never contracted with any non-government entity to adjudicate claims for VA disability compensation benefits.

Question 3: Please describe how VA is implementing IDA's training recommendations. Please address specifically how VA's training efforts differ from those in the past and provide details about that training; for example, title and brief description of training courses; whether the training is mandatory or not; personnel required to take a particular training module; whether the training includes a testing requirement to ensure that trainees have assimilated the materials.

Response: IDA recommended VA standardize initial and ongoing training for rating specialists. VBA has a standardized training curriculum for all rating veterans service representatives (RVSRs). All new RVSRs are required to attend 3 weeks of national, centralized training. VBA provides regularly recurring centralized training sessions for newly appointed RVSRs. Topics covered during centralized training include general rating policies as well as specific rating policies related to the different body systems. Before and after attending centralized training, new RVSRs follow a prescribed standardized training schedule to include the use of computer-based training and performance support system (TPSS) modules. TPSS modules include tests to ensure that students assimilated the materials.

Each year all RVSRs are required to complete at least 80 hours of training. Training topics are derived from a standardized RVSR curriculum that is available on the Compensation & Pension Web site (copy of curriculum is enclosed). VBA implemented the annual 80-hour requirement in 2006. For fiscal year (FY) 2008, all RVSRs are required to complete the new TPSS module on rating post traumatic stress disorder (PTSD) claims.

Question 4: Are VBA personnel who adjudicate claims required to have professional or other certification? If not, please explain why certification is not required and whether VBA plans to require certification in the future. If certification is required, please describe the required certification, how VBA ensures that its personnel have the necessary certification(s), and the consequences to VBA personnel who do not obtain required certifications.

Response: VBA personnel who adjudicate claims are not required to have professional or other certification. VBA has developed an instrument and process for skills certification for the veterans service representative (VSR) position. VSRs that elect to take the certification test and pass are promoted to the GS-11 level in the career ladder. Skills certification has been developed as a secure assessment instrument that enables VSRs to demonstrate that they have attained the level of skills required to provide quality service and decisions to veterans. Six hundred VSRs have passed certification. To date, certification has been a voluntary process.

VBA is currently developing a skills certification instrument for rating VSRs and is in the final stages of validity testing. We are currently engaged in our collective bargaining obligations with the American Federation of Government Employees (AFGE) regarding full implementation of the rating VSR skills certification process.

It is VBA's goal to make skills certification a requirement for advancement to the journey level for our key decision making positions.

Question 5: With respect to the STAR reviews that are conducted each year, how many STAR reviews are taking place, and what are the outcomes of each of the reviews?

Response: Currently, 120 rating cases and 120 authorization cases for each of our 57 regional offices are sampled for accuracy review each year. The rating sample is doubled (240 cases) for the four largest stations and the six stations with the lowest overall accuracy. Regional office and national accuracy statistics are reported on a 12-month rolling cumulative basis. VBA recently approved a significant expansion of the number of claims sampled through the STAR program. In 2008, VBA is increasing the number of annual reviews to 246 rating and 246 authorization cases for each of the regional offices as well as 246 cases for each of the three pension maintenance centers. Hiring authority for 16 additional quality reviewers was granted to support this sampling increase and the addition of a national rating consistency review. The Compensation and Pension Service is currently recruiting for additional reviewers and obtaining additional space to support this expansion.

The STAR program assesses the accuracy of claims processing decisions across regional offices through a comprehensive review and analysis of all elements of processing associated with a specific claim. The STAR system includes review of work in three areas: (1) claims that usually require a disability rating decision, (2) claims that generally do not require a disability decision, and (3) fiduciary work. Reviews

are conducted after completion of all required processing actions on a claim. The program was designed to be outcome-based, but outcome was not limited to the decision reached. The definition of outcome includes addressing all issues, fulfilling duty-to-notify and duty-to-assist obligations, making the correct decision, and establishing the correct payment from the correct date. These outcome areas are identified under the "benefit entitlement" category. When an error in the benefit entitlement category is identified, the case is considered "in error." Other review categories include "decision documentation/notification" and "administrative." A structured quality review check sheet is used to promote consistency of reviews. STAR accuracy review results are used to assess station accuracy for quality improvement purposes and to facilitate local training efforts.

Upon return of the claims folder or guardianship file to the regional office, station management ensures that deficiencies noted are corrected. Corrective action can include re-adjudication or notification, as well as employee training and feedback. Regional offices are required to provide quarterly notification of corrective action taken on STAR benefit entitlement and decision documentation/notification errors identified during that quarter. The quarterly corrective action reports are validated during routine oversight compliance visits conducted by the Compensation and Pension Service.

Question 6: The IG, GAO, and IDA have all noted that VBA has tested for accuracy of claims adjudication but not for consistency across offices. What is VBA doing to remedy this defect?

Response: As part of VBA's continued commitment to quality improvement, the Compensation and Pension Service Quality Assurance Staff is being reorganized and expanded to add a consistency tier to our national quality assurance program.

VBA developed and implemented a rating consistency review program to assess both the frequency of assignment or denial of service connection (grant/denial rate) and the most frequently assigned evaluation (mode) across regional offices for selected diagnostic codes. Results are plotted per diagnostic code to identify stations falling outside of two standard deviations from the mean. Business rules are applied to the data analyses to determine the diagnostic codes warranting focused case reviews.

This methodology was successfully tested in a consistency review pilot project that was completed in August 2007. Post-traumatic stress disorder (PTSD) was identified as one of the most frequently rated conditions during the period October 2004 through September 2006. The grant/denial rate of PTSD across all regional offices was plotted to identify stations falling outside of two standard deviations from the mean.

Data on ratings involving individual unemployability (IU) decisions from the October 2004 through September 2006 period was also analyzed. The grant/denial rate of IU across all regional offices was plotted to identify stations falling outside of two standard deviations from the mean.

A Data Analysis Staff was created within the Quality Assurance Staff to perform ongoing monitoring of rating consistency. Using approved statistical methodology, this staff works with VBA's Office of Performance Analysis & Integrity to extract, analyze, and identify statistical outliers. Focused rating consistency case reviews will be conducted by the quality review staff based on the results of the statistical analysis. The results of the current data analysis of rating decisions from the period October 2005 through September 2007 will be analyzed to determine the diagnostic codes warranting focused case reviews for the remainder of the fiscal year.

Question 7: If the Veterans Benefits Administration is unable to get information relating to a service member's in-theatre service directly from the Department of Defense to verify stressors contributing to PTSD, what alternate sources are being used to verify stressors when validating a claim in the ratings process?

Response: VA uses the following sources to verify claimed in-service stressors without requesting verification from the Department of Defense (DoD), or when VA is unable to obtain verification from DoD:

National Archives and Records Administration (NARA) and Records Management Center (RMC)

VA primarily uses records held by NARA and the RMC to verify claimed in-service stressors. NARA maintains a registry of most individual medical and personnel records in its custody, while the RMC houses records received from DoD and the Coast Guard. Examples of common sources of evidence VA uses to corroborate claimed in-service stressors from NARA/RMC include:

- military occupational specialty (MOS) or individual award evidence

- personnel folder or service medical records
- morning reports
- medical evidence from civilian/private hospitals, clinics, and physicians where or by whom a veteran was treated, either during service or shortly after separation

On-line Reference Material

To reduce the time involved in verifying a claimed in-service stressor, VA uses VBA sanctioned Web sites and authorized reference material for research on corroborating stressors. Authorized sources are available through a VBA Web site that provides links to 30 sites on Web pages and cites reference material relevant to PTSD stressor research. A few examples of Web sites include:

- The Vietnam Casualty Search Page, “No Quarter”—This Web site contains a database of Vietnam casualty information. A search may be conducted by name, province of casualty, hometown or state of the veteran.
- DoD Gulfink—This site has information on the 1990–1991 Gulf War with declassified documents on records from all the Armed Forces.
- Iraqi Coalition Casualty Count—Contains a list of coalition casualties and the circumstances of death for Operation Enduring Freedom and Operation Iraqi Freedom.

Marine Corps unit records from the Korean Conflict and Vietnam Era are maintained on VBA’s imaging management system, Virtual VA. A Web-based application has been developed to enable employees to research these records. The Marine Corps Archives and Special Collections (MCASC) Office maintains custodianship of the records. If VA cannot verify a claimed stressor, or requires unit records dated after the Vietnam Era, MCASC is contacted to identify the document or provide confirmation that the claimed stressor cannot be corroborated.

VA considers other sources of evidence that may be used to help corroborate in-service stressors. Such sources include buddy statements or affidavits, letters written during service, photographs taken during service, State or local accident and police reports, or newspaper archives. In the case of combat veterans, the corroborating statements of comrades who have personal knowledge of the stressful event are sufficient.

In PTSD claims involving sexual or personal assault, VA also develops for indicators of the assault, such as sudden declines in performance, sexually transmitted disease testing, requests for reassignment and other indicators to validate the event.

